

STATE OF CALIFORNIA
THE RECLAMATION BOARD
REGULAR BOARD MEETING
OPEN SESSION

RESOURCES BUILDING
1416 NINTH STREET
AUDITORIUM
SACRAMENTO, CALIFORNIA

FEBRUARY 16, 2007

9:07 A.M.

KATHRYN S. KENYON, CSR
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PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

APPEARANCES

BOARD MEMBERS

Mr. Benjamin Carter, President

Mr. Butch Hodgkins, Vice President

Ms. Lady Bug Doherty, Secretary

Ms. Teri Rie, Member

STAFF

Mr. Jay Punia, General Manager

Mr. Stephen Bradley, Chief Engineer

Mr. Dan Fua, Supervising Engineer

Ms. Nancy Finch, Legal Counsel

Mr. Scott Morgan, Legal Counsel

Ms. Lorraine Pendlebury, Staff Assistant

ALSO PRESENT

Mr. Rex Archer

Mr. Lewis Bair, Sacramento River West Side Levee District

Mr. Paul Brunner, TRLIA

Mr. John Carlin, River Partners

Mr. Dan Efseaff, River Partners

Mr. Tom Ellis, Sacramento River West Side Levee District

Mr. Tom Foley, CCRG

Ms. Shannon Holbrook, U.S. Fish and Wildlife Service

APPEARANCES CONTINUED

Mr. Tim Kerr, Department of Water Resources

Mr. Eric Larrabee

Mr. Dave Mraz, Department of Water Resources

Mr. Pete Rabbon, National Flood Risk Management Program

Mr. Ric Reinhardt, TRLIA

Mr. Todd Southam, Levee District 3

Mr. Mark Spannagel, Assemblyman LaMalfa

Mr. Keith Swanson, Department of Water Resources

Mr. Wes Tilton

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1 PROCEEDINGS

2 PRESIDENT CARTER: Good morning, ladies and
3 gentlemen. Welcome to the meeting of the California State
4 Reclamation Board on this lovely Friday morning.

5 Driving down the Sacramento Valley this morning, I
6 think I could see at least a hundred miles in either
7 direction.

8 So welcome.

9 Mr. Punia, if you would call the roll.

10 GENERAL MANAGER PUNIA: For the record, Jay Punia,
11 general manager, for the Reclamation Board.

12 For the record, except Board Member Rose Marie
13 Burroughs, the rest of the Board members are present.

14 PRESIDENT CARTER: Thank you.

15 Also, let the record show that there was no closed
16 session held this morning to discuss litigation, as noted
17 on Item 2 of the agenda for today.

18 On to Item 3, approval of the minutes of
19 November 17th, 2006.

20 We'll entertain a motion. It's at the pleasure of
21 the Board.

22 Do we have a motion?

23 SECRETARY DOHERTY: Look them over first.

24 PRESIDENT CARTER: Okay.

25 Anybody have any suggested --

1 SECRETARY DOHERTY: I make a motion that we
2 approve the minutes as presented.

3 PRESIDENT CARTER: Okay. We have a motion to
4 approve as presented in the packet?

5 Is there a second?

6 MEMBER RIE: Second.

7 PRESIDENT CARTER: We have a second.

8 Any discussion?

9 All those in favor indicate by saying "aye."

10 (Ayes.)

11 PRESIDENT CARTER: And opposed?

12 Motion carries unanimously.

13 Very good.

14 Item 4, approval of the agenda.

15 Do we have any suggested changes to today's
16 agenda?

17 Mr. Punia?

18 GENERAL MANAGER PUNIA: We have two suggested
19 changes for the Board to consider: Item No. 10 -- Erin
20 Mullin, she's not here. And Tim Kerr will present this
21 item from the Department of Water Resources; and Item
22 No. 16, Keith Swanson of the Department of the Water
23 Resources has requested to postpone this briefing to the
24 Board. Department of Water Resources is working on some
25 guidelines. The logic is that we will read the guidelines

1 first and then bring this item back to you at a later
2 date.

3 SECRETARY DOHERTY: Which item was that?

4 GENERAL MANAGER PUNIA: No. 16, Evaluation of
5 Murphy Slough property for establishment of Valley
6 Elderberry Longhorn Beetle.

7 PRESIDENT CARTER: Are there any other suggested
8 changes to the agenda for today?

9 Okay. We'll entertain a motion to approve the
10 agenda as amended, which amendments are to Item 10,
11 changing the presenter to Tim Kerr, from Erin Mullin; and
12 postponing the discussion of Item 16, the informational
13 briefing for Item 16, to a future meeting.

14 SECRETARY DOHERTY: I will make that motion.

15 PRESIDENT CARTER: Okay. We have a motion.

16 Is there a second?

17 MEMBER RIE: Second.

18 PRESIDENT CARTER: And we have a second.

19 Any discussion?

20 All those in favor indicate by saying "aye."

21 (Ayes.)

22 PRESIDENT CARTER: And opposed?

23 Motion carries unanimously.

24 Okay. We're on to Item 5. This is the time for
25 public comment. This is public comment for items that are

1 not agendized for today. We welcome all members of the
2 public to address the Board.

3 If you do wish to address the Board on this item
4 or any other item on the agenda today, we ask that you
5 please fill out these white cards. There's a stack of
6 them at the table at the entrance to the auditorium. And
7 also Lorraine has some here at the front desk here with
8 the staff. So please fill those out so that we know you
9 do want to speak. We want to give everybody the
10 opportunity.

11 We do ask that members of the public, please try
12 and limit their comments to five minutes so that we can
13 get through our busy agenda today.

14 So with that, are there any people -- I don't have
15 any cards for people who want to address the Board on
16 general items.

17 Okay. Very good. We have no public comment,
18 then.

19 With that, we'll move on to Item 6, Report of the
20 Activities of the Department of Water Resources.

21 Mr. Swanson in place of Mr. Mayer.

22 MR. SWANSON: Good morning. Keith Swanson. I'm
23 still acting chief of the Division of Flood Management,
24 but hopefully rapidly transitioning back to my day job of
25 chief of the Flood Maintenance Office.

1 I want to start off with weather conditions.
2 You're right; a beautiful day today. Supposed to be 70
3 degrees, I understand. Not great weather for our water
4 storage. The good news on water storage is the reservoirs
5 continue to be above average. The bad news is the snow
6 content is about 40 percent of average, statewide; some
7 places lower. We had a little bit of rain fall last week,
8 but it was pretty much a warm storm and didn't do a whole
9 lot for the snow pack.

10 There's a little bit of a storm coming in, late
11 this weekend, maybe Sunday, Monday. That's also supposed
12 to be a fairly warm storm, not necessarily that big.

13 Long term, there -- you know, in the model they
14 are picking up the potential for a colder storm, about ten
15 days out, but that's always a little bit iffy, but it's so
16 far out. You know, it's shaping up more and more like
17 this is going to be a below average year and it's going to
18 have impacts on, you know, long-term water delivery.

19 Moving on to our Levee Evaluation Program that's
20 being funded by bond money and the \$500 million emergency
21 appropriation, that's moving forward, rapidly gaining
22 momentum. The evaluation of the 350 miles of urban levee
23 is currently scheduled to be completed in an 18-month
24 period. It's going to include LIDAR surveys; bathymetric
25 surveys of the river channels; electromagnetic surveys of

1 the levees looking for magnetic anomalies, pipes crossing
2 through, that kind of thing; and it has a fairly
3 substantial drilling and penetrometer program.

4 Currently, the drilling and penetrometer work is
5 almost complete in West Sacramento. It's going great guns
6 in Marysville and in RD 17. And it's set to start in
7 about two weeks, up in Sutter County.

8 There's going to be a Board consultant meeting
9 next week. I think that's the third Board consultant
10 meeting. Corps of Engineers is actively participating,
11 providing oversight, which is important. As we move
12 forward, we are going to want to use this information as
13 part of FEMA certification process and getting the Corps
14 to buy in, along the way. It's critical to make sure
15 there's no hiccups along the way.

16 There's going to be a series of reclamation
17 district workshops to keep locals informed about the
18 ongoing program activities. There's a workshop on
19 February 27th in the Marysville -- in Marysville/Yuba City
20 area. February 28th, Lathrop. And actually, these
21 workshops are going to be at the Joint Operation Center,
22 at Watt and El Camino. But the 27th meeting is for the
23 Marysville/Yuba City work. February 28th is for the RD 17
24 work. And then on March 1st, there's going to be a
25 workshop for the Sacramento metropolitan area.

1 Board members are welcome. If you have a
2 subcommittee and you want to participate and get a more
3 in-depth briefing about what's going on, we can get the
4 specifics on the start time.

5 Also, this summer, the plan is to begin evaluation
6 of rural levees. And so that will get going, you know,
7 mid summer time.

8 Erosion repairs; I'm not sure if everyone saw the
9 article in the Monday morning Bee, talking about, you
10 know, environmental conflicts with the ongoing critical
11 erosion repair. That currently created a stir here, in
12 DWR, and with the resource agencies. The general
13 consensus was that the story buried what are, really,
14 unprecedented levels of cooperation with the resource
15 agencies and unprecedented levels of mitigation that are
16 being incorporated into these designs. You know, these
17 designs minimize the loss of existing trees. There's
18 extensive revegetation contracts that will be part of the
19 projects. There's a lot of component soil/rock mixture,
20 some covering, trenches with soil in it for planting down
21 at the rock berms at the water level, silo tubes placed in
22 the rocks so that vegetation can be planted and will
23 penetrate into the soil levees.

24 There's also a three-year establishment period
25 associated with the designs. And there's going to be a

1 seven-year additional monitoring period above and beyond
2 that. You know, they kind of looked at what was going on
3 now. And I think they mentioned, in the article, but kind
4 of in the back page, that there were going to be a lot of
5 restoration contracts starting up this spring and
6 continuing on, through the summer.

7 As far as work in progress, over the last month or
8 so, the Brannan Andrus Levee Maintaining District began
9 work on 13 sites, down in their area. And the Corps began
10 work on eight sites on Grand Island.

11 Also, we've got design work going on for the Cache
12 Creek setback or in-stream options to repair two sites on
13 Cache Creek. And there's design work going on for a site
14 up on Butte Creek.

15 There were some recent outreach meetings that were
16 held. And those were in response to Board requests for
17 bid or outreach. There was a January 30th meeting down in
18 Rio Vista to cover Delta work. There was a
19 January 31st meeting in Woodland to discuss the ongoing
20 Cache Creek designs. And then there was a
21 February 8th meeting to discuss Sac metro work. There
22 will be mutual outreach in April to discuss River Mile 182
23 repairs and another repair on Butte Creek.

24 I put a small section in the report of activities
25 on Delta Levee Maintenance Subvention Program. Probably

1 the biggest thing on that is Dave Mraz will be in front of
2 you, in March, to present draft guidelines for your
3 consideration for the upcoming year. So that will be
4 occurring in March.

5 There's a little schematic on there that
6 represents their thinking on how they would -- would
7 allocate money, how they would suggest money be allocated.

8 We followed up and wrote up something on our
9 existing grazing program. And I think as you can see,
10 it's a fledgling program that we can do better in the
11 future, on. We highlighted the lower San Joaquin Levee
12 District grazing activities on the Eastside Bypass and
13 Chowchilla Bypass, that had been ongoing since 1968. We
14 also talked about the Colusa Bypass grazing lease that we
15 have had in effect for the last, I don't know, five, six,
16 seven years.

17 It came to my attention, preparing this report,
18 that we need to renegotiate that lease. It ended last
19 year. We talked about some of the recent advances we have
20 been -- we have made on the Feather River, working with
21 the Department of Fish and Game, where we, just this last
22 year, expanded grazing into our Lake of the Woods area.
23 And it also talked about the grazing that we've been using
24 as a vegetation management tool on the Feather River from
25 the confluence with the Sutter Bypass, on the north,

1 toward the Bear River.

2 We talked about the options for expanding grazing
3 on Fremont Weir area, the Yolo Bypass, and Tisdale Bypass.
4 And kind of want to ask the Board if -- because you guys
5 have quite a bit of expertise, if maybe you would like to
6 be more actively involved as we move forward, working to
7 bring grazing to the Yolo Bypass and the Tisdale Bypass.
8 This is something that Jeff Fong will be responsible for.
9 And I think I'm probably going to have someone from my
10 staff participate in it, as we try to build expertise.

11 But I know Rose Marie, I think Lady Bug, Dan, I
12 think you guys are all -- you come from a grazing
13 background. So I don't know if you have a subcommittee.
14 And if you would like to participate, I think your
15 expertise would certainly be welcome. I will leave that
16 out there.

17 Tisdale Sediment Removal -- Tisdale Bypass
18 Sediment Removal Program continues to be on course for
19 summer construction. We're working a number of issues
20 right now. And I think you have heard about them in the
21 past. As far as real estate work, we're actively in
22 negotiation. We're working on our environmental
23 compliance and permits. Our CEQA documents are out for
24 public review right now. The comment period closes on the
25 second. We completed our mitigation monitoring plan.

1 That's over at the Corps. We've just completed our
2 biological assessments, and those are undergoing internal
3 review. We've had the resource agencies out to the site
4 in the last couple of weeks, so that they are on board
5 with what we are proposing.

6 Our 401 compliance is moving forward with --
7 similar to Fremont. We've been talking with the regional
8 water quality control board about issues that we have. We
9 have heavy metals. There's trace of heavy metals in the
10 bypass sediments, similar to what we have at Fremont; in
11 fact, even a little bit lower level, similar to the
12 background levels of heavy metal adjacent to the Tisdale
13 Bypass. So we don't anticipate any problems there.

14 We also met with the local RD managers on
15 January 29th and gave them an update on where we were, and
16 worked through the schedule. I think they left feeling
17 confident, like we are, that we are going to bring this
18 project, you know, to construction soon.

19 SECRETARY DOHERTY: Mr. Swanson, may I ask you,
20 for the last several meetings now, prompt acquisition has
21 been in negotiation. Is there a date when this might be
22 concluded? What....

23 MR. SWANSON: The latest is, the Department has
24 actually submitted a formal offer to the one property
25 owner and possibly two. Allan Davis is here, and you

1 could ask him more specifically. But we've been moving
2 through the process. And we are continuing to make steps
3 to resolve the issues. We have been actively meeting to
4 resolve the water delivery issues associated with the
5 area. That's been going on, on a regular basis. And we
6 feel like we have that under control. The appraisals have
7 been completed. The formal offer has been submitted to
8 the owner, which begins the process. And now, it's -- you
9 know -- in negotiation.

10 SECRETARY DOHERTY: How many days does he have, or
11 she have, or whomever have, to accept or not accept this
12 offer?

13 MR. SWANSON: Allan, do you want to --

14 MR. DAVIS: Mr. President, General Manager, and
15 Members of the Board, my name is Allan Davis. I'm the
16 chief over acquisitions and utility relocation for the
17 Department of Water Resources.

18 As far as -- Lady Bug to answer your question, as
19 far as time is concerned, it's pretty much based on --
20 each acquisition is an acquisition in itself. Normally,
21 we're looking at about 45 to 60 days to allow the
22 landowner to digest the offer and to come back with a
23 counteroffer.

24 On one of the landowners, we're meeting with them
25 next week, to see if we could resolve one of the

1 outstanding issues. I hope that answers your question.

2 SECRETARY DOHERTY: What happens if both
3 landowners turn down the offer and then what -- what's the
4 alternative plan?

5 MR. DAVIS: The only alternative plan that we have
6 available now is to come back before you and seek a
7 resolution of necessity, which is the first step in the
8 condemnation process.

9 SECRETARY DOHERTY: So that is the only
10 alternative available? Mr. Swanson, is that -- or is
11 there someplace else where the spoil can go?

12 MR. SWANSON: We -- we have some existing property
13 that could take a small portion of it. But basically, we
14 need this property to move forward. We need at least one
15 of the properties to move forward, one of the two parcels
16 that we have identified.

17 And so you know, if we don't get either of those
18 two, then we have enough room for, I think, about 300
19 cubic yards, 300,000 cubic yards, up to 1.7 million cubic
20 yards that we have need to have disposal site for.

21 SECRETARY DOHERTY: When did the 45 days begin,
22 for the property acquisition?

23 MR. DAVIS: 45 days. We made the offer prior
24 to or the same week as last month's Board meeting. So
25 we're at about 30 days right now.

1 SECRETARY DOHERTY: All right.

2 Now, this might be just kind of out there, but
3 what would happen if you got a barge and dumped all this
4 soil on the barges or someplace downstream that somebody
5 might want it?

6 MR. SWANSON: I think cost-wise, and technically,
7 that's not going to work. Typically, we wouldn't run
8 barges up that far because of draft problems. The river
9 below Tisdale is pretty shallow.

10 SECRETARY DOHERTY: They used to bring boats up
11 there all the time.

12 MR. SWANSON: Well, they used to have an active
13 dredging program, and they maintained it for navigation
14 purposes. The Corps stopped that, I think, in the '70s.
15 So we don't have that option anymore. Plus, the issues
16 with sediment removal. But, you know, handling dirt the
17 further you carry it, the more expensive it gets.

18 You know, we looked at building a stability berm
19 on the west levee of the Sutter Bypass and we found that
20 that was just cost prohibitive, and it's going to
21 completely blow our budget. So we backed off from that
22 particular option.

23 SECRETARY DOHERTY: So we're at about 30 days
24 right now?

25 MR. DAVIS: Yes.

1 SECRETARY DOHERTY: Thank you.

2 MR. DAVIS: Sure.

3 Just one final comment: That's -- condemnation is
4 the final alternative. We're really working very
5 diligently to bring about the resolution to these
6 particular problems. And we believe that we will have all
7 the issues resolved hopefully by the next Board meeting.

8 SECRETARY DOHERTY: Good. Now, if you went to
9 condemnation, what's the timeframe there?

10 MR. DAVIS: Timeframe as far as the process is
11 concerned? The process is very timely. However, having
12 access to the property averages about 45 days as well.

13 SECRETARY DOHERTY: All right. Thank you very
14 much.

15 MR. DAVIS: You're welcome.

16 MR. SWANSON: As far as Garmire Road Bridge, I
17 need to bring to your attention a problem that recently
18 came to my attention. And that is that Caltrans does not
19 currently have adequate funding programmed to allow
20 construction to start. They have \$8 million programmed
21 when they need 10 million. Unfortunately, the County,
22 which is the direct contact with Caltrans, did not inform
23 Caltrans of the escalated costs that, you know, we've
24 experienced lately. And so Caltrans did not ask for the
25 additional funding.

1 Up until this year, Caltrans had quite a bit of
2 latitude. And they could easily reprogram money
3 internally. They changed their procedures in the last six
4 months, and that's causing some problems.

5 SECRETARY DOHERTY: May I ask you another
6 question?

7 MR. SWANSON: Yes.

8 SECRETARY DOHERTY: Now, this bridge, as I
9 understood, had the money appropriated. So it had to go
10 through, and it couldn't be a low water crossing. But if
11 the money is not available, could not we now rescind that
12 bridge deal and make a low water crossing? Because that
13 road is used very seldom.

14 MR. SWANSON: Well, the funding on this right
15 now -- the federal government has changed the cost-share
16 rules. It's approximately 11 percent local money, 90 --
17 you know, 90-odd percent, 80, 89 percent federal money.
18 We've gone through and developed the plans and specs. We
19 obtained all the environmental permits. This project is
20 ready to go.

21 The hope is that Caltrans will be able to
22 reprogram the money, take it from a project, for instance,
23 over in Yuba County, that isn't likely to start this year,
24 get the additional \$2 million and we will still be in
25 construction this year.

1 Caltrans is working very diligently to locate and
2 reprogram that money. If that doesn't happen, then they
3 have to put in some paperwork and go to the federal
4 government and get the money, and they will get it about
5 May, which would basically mean we would lose this
6 construction season, but it would be ready to go the
7 following year. That would be the last hurdle that I can
8 envision at all.

9 You can't really go back. I mean, if you want to
10 go back and start a, you know, a three-year process or
11 even more, because you would have to even line up your
12 funding sources, because now the federal government
13 probably would not have an interest, you know, if you are
14 going to put in a low water crossing bridge rehabilitation
15 program. Not sure they have a low water crossing program.

16 So if you want to start all over and look for new
17 funding and start the environmental process and design
18 process, you could do it. But I would say you're at least
19 three years out, if not more.

20 SECRETARY DOHERTY: Well, the old bridge is still
21 there; right?

22 MR. SWANSON: Yes.

23 SECRETARY DOHERTY: So we could continue to use
24 that and --

25 MR. SWANSON: Yeah.

1 SECRETARY DOHERTY: -- save money.

2 MR. SWANSON: Well, why we've gotten involved
3 is -- is we want to get that old bridge out of there as
4 soon as possible because it traps all the debris. And so
5 for us, the sooner the better. And I think a lot of the
6 locals around there would also agree, the sooner we could
7 get that bridge torn out, the better off we are.

8 I think we are pretty far down the road to change
9 directions. And our hope is, we would still be in
10 construction this year. We're working with the issue.

11 We'll keep you posted, though, as far as what's
12 going on, on this.

13 VICE PRESIDENT HODGKINS: Keith?

14 MR. SWANSON: Yes.

15 VICE PRESIDENT HODGKINS: If -- if Board members
16 were willing to do what we can, in terms of one-on-one
17 meetings with Caltrans and Sutter County, to make sure
18 people understand the public safety aspect of going
19 through another winter without getting this thing cleaned
20 out, I think there's some potential liability aspects. I
21 would let the Board members define that as opposed to the
22 attorney. Would that help or would it --

23 MR. SWANSON: You know, we tried -- I asked
24 Michelle Engle, of my staff, to try to work with Caltrans
25 to see if there's something that we could do. And

1 unfortunately, we were not able to get ahold of anybody
2 this week. I'm thinking there might be. Because what I'm
3 hearing is that there might be a project over in Yuba
4 County that's not likely to -- realistically, it's not
5 going to go to construction this year.

6 And if they would just agree that, yeah, we're not
7 going to construction this year, we could potentially -- I
8 mean, that's a particular option. Now, you know, the
9 county might have a different -- a different say on that.
10 And there might be other projects out there. And so
11 possibly -- I guess, what I would ask is, let us work on
12 it. And if there's something that we see, if we hear, if
13 there's any way that you can help, we'll pass on the
14 appropriate contact information.

15 VICE PRESIDENT HODGKINS: Okay.

16 SECRETARY DOHERTY: Mr. Bair, did you have a
17 question?

18 MR. BAIR: Lewis Bair. I'm with the Sac River
19 West Side Levee District, just kind of on the opposite
20 side of the river.

21 And my question for Keith was, the 10 million that
22 you need, is that an official bid number? Because my
23 experience, recently, is things are changing so
24 dramatically, so quickly, is it possible to go out to bid
25 and get a real number? So when you go out to bid, you

1 don't have another surprise like this.

2 MR. SWANSON: You know, I think you are talking
3 about Caltrans requirements. You know, and I don't want
4 to speak for Caltrans there. I probably already said
5 something wrong as far as Yuba County.

6 I think they have the rules and regulations on,
7 you know, what it takes to vote a bid and they do this all
8 the time. And so, you know, they are going to work it
9 out. They are going to get enough money to allow them to
10 go to construction. And then if things change from there,
11 I'm sure they have mechanisms that deal with, you know,
12 changes in construction costs.

13 PRESIDENT CARTER: Let's go ahead and move on.

14 MR. SWANSON: We put in a heads-up, a request to
15 allow GM emergency delegation authorities to deal with
16 some operation and maintenance agreements for 14
17 Corps-instructed repairs. These are associated with some
18 letters that were sent out to, I think, one or two RDs, a
19 couple RDs associated with long-term operation and
20 maintenance requirements, associated with critical erosion
21 repairs.

22 Those are expected back to the Reclamation Board
23 in the next couple of weeks or so. And the hope was that
24 Jay could have the authority to sign those for the
25 Reclamation Board, if in fact, they would come.

1 Provided a legislative summary. Again, I wasn't
2 necessarily going to go through anything in particular.
3 In the future, though, if you want more detailed
4 briefings, on any of the legislative bills that are out
5 there, you know, let us know, and we can arrange to have
6 the appropriate person come and brief you in much more
7 detail.

8 The last thing that I wanted to touch on is that
9 California Flood Safe Initiative. The Department is
10 scheduling eight public and government workshops in
11 February and March. The goal of these workshops is to
12 provide an overview, the goal's guiding principles, and
13 the vision for expending bond funds, and to inform
14 stakeholders on near-term -- that's next fiscal year
15 bond-funding opportunities.

16 The presentation is going to highlight DWR-managed
17 programs that will have funding at the start of the fiscal
18 year. And those include a \$200 million pot of money
19 that's going to be available for state, federal flood
20 control system modifications. That's money that would
21 fund improvements, say, in Three Rivers or in Natomas or
22 something like that. It would be state money to match
23 local money, maybe levee construction projects.

24 It's also going to talk about the existing ongoing
25 state programs, which include the State Flood Control

1 Subventions Program, when the state has a backlog of
2 obligations. The Flood Protection Corridor Program, and
3 the Urban Streams Restoration Program.

4 And as far as the subventions program, there's,
5 like, a hundred million that's budgeted for that;
6 25 million for the Corridor; and 9 million for the Urban
7 Streams Program.

8 And then there's going to be a new statewide
9 program to fund local levee evaluations and local levee
10 urgent repairs that need to occur.

11 So with that, I'm open for questions.

12 PRESIDENT CARTER: Do we have any questions for
13 Mr. Swanson?

14 VICE PRESIDENT HODGKINS: Could I get the schedule
15 for those workshops, please?

16 MR. SWANSON: Sure.

17 VICE PRESIDENT HODGKINS: Is it on the Web?

18 MR. SWANSON: You know, I think it is. I've got a
19 copy, too, I can get you.

20 VICE PRESIDENT HODGKINS: I think, if those are in
21 an area of a board, going to those and listening to what
22 people say is helpful as we try and do our strategic
23 planning.

24 MR. SWANSON: You know, why don't -- I will work
25 and get everybody copies.

1 SECRETARY DOHERTY: We got a copy of it.

2 VICE PRESIDENT HODGKINS: Oh, we do?

3 SECRETARY DOHERTY: I got a copy from Lorraine.

4 MR. SWANSON: It was announced. It was sent up.

5 PRESIDENT CARTER: Thank you.

6 Moving on to Item 7, State of Emergency -- Board
7 Actions.

8 Mr. Punia?

9 GENERAL MANAGER PUNIA: Jay Punia, general
10 manager, Reclamation Board.

11 As Keith mentioned, Rec Board staff worked with
12 the Department of Water Resources staff and sent 14
13 operation and maintenance draft agreements to the local
14 levee maintaining agency for the 14 critical erosion
15 sites, on behalf of Reclamation Board.

16 And we also sent them the draft of plan and
17 specification for those sites also. The idea is that the
18 locals should have a chance to review the plan and specs
19 and the draft, and provide us input before we will execute
20 those agreements. And as Keith mentioned, we will be
21 coming to the Board, hopefully, next month, requesting the
22 Board to authorize the general manager to sign the
23 agreements on behalf of the Reclamation Board. That's the
24 only action we took on this item.

25 PRESIDENT CARTER: Thank you. Any questions for

1 Mr. Punia?

2 MEMBER RIE: Yes. I'm just wondering if there's a
3 sense of urgency to delegate these to the general manager,
4 or can they be brought before the Board in a reasonable
5 amount of time?

6 GENERAL MANAGER PUNIA: I think I need to
7 coordinate, before responding to this question, better
8 with Mike Inimini [phonetic] and Paul Sandlue [phonetic]
9 from the critical erosion site, that what's the urgency
10 that they are requesting this delegation? I'm not in a
11 position to answer it at this time. I will get back to
12 you.

13 MEMBER RIE: I see, Mr. Swanson left. My only
14 concern with that is some of these reclamation districts
15 may want to have an opportunity to address the Board on
16 this issue. So we wouldn't want to preclude that if time
17 allows.

18 GENERAL MANAGER PUNIA: Okay.

19 PRESIDENT CARTER: Any other questions for
20 Mr. Punia?

21 Okay. Moving on, Item 8, Three Rivers Levee
22 Improvement Authority monthly report.

23 Mr. Brunner?

24 MR. BRUNNER: Well, good morning, President
25 Carter, Members of the Board. I'm Paul Brunner, the TRLIA

1 executive director. And before I launch into my
2 presentation here, I will carry back the message about
3 transportation in Caltrans and the bridge and Yuba County.

4 VICE PRESIDENT HODGKINS: That's okay, Paul.
5 Don't carry that back.

6 MR. BRUNNER: Well, I do know that we do have
7 intentions to move forward on the highway. The -- so at
8 least from Yuba County's perspective.

9 We did turn in a supplemental report. And I will
10 be referencing that as I go through today, so it would be
11 worthwhile for you to pull it out.

12 I'm going to begin my discussion today with the
13 Feather River update and particularly the work that we are
14 going to be doing on the Feather River from the Bear to
15 the Yuba, and the decision process that we made on the
16 alternative here.

17 (Thereupon an overhead presentation was
18 presented as follows.

19 MR. BRUNNER: Last November, there was a
20 significant event that took place. I mentioned that last
21 time, the election Prop 118, it passed. Since that time,
22 I know, Yuba County, RD 784, TRLIA have all been in
23 discussions about which way do we go. So many discussions
24 have gone on. We have talked at length with the state,
25 particularly DWR, on that issue as to which way to go, and

1 proceed forward.

2 A really, very significant event for Yuba County,
3 TRLIA, RD 784 occurred about a week and a half ago.

4 The TRLIA Board, which is the decision making
5 authority in this decision, opted to select Alternative 2
6 which was a setback alternative as the way to proceed.

7 The EIR was then noticed, and the time period for
8 the appeal time to run out is either eight or nine
9 depending on the exact date you want to look at, of March.
10 So we're moving forward in that area there.

11 Our goal remains to still get the 2008 time
12 period, and complete it in that time period. It's an
13 aggressive schedule.

14 We have a subcommittee meeting that will be
15 meeting with you, three of you, on the 26th of February.
16 And our intention there is to present to you the schedule,
17 the permits that we think how that's going to work; the
18 land acquisition process that we plan to take and engaging
19 on; funding, which includes state and local. And there
20 are some shifts there are that are happening in funding,
21 because to do the setback does require significant state
22 funds. And we would anticipate to get significant state
23 funds for this project. And in our discussions, with
24 high-ranking DWR officials, we think that that will
25 happen. Can't guarantee that. But we think that there's

1 really good opportunity, great regional benefits. All the
2 criteria that laid out within the state's proposed
3 criteria, we fit. And we're moving down that road, and we
4 really look forward to sitting with you on that time and
5 explaining how we will accomplish this goal on the 26th.

6 Related to that, there was a process that we had,
7 the TRLIA Board worked through, and we did move the second
8 capital call to February 28th, for the developers to make
9 that call. There's a resolution in your package. It's
10 the last attachment to that, that addresses that.

11 The -- when we did that, we went through an
12 analysis to see if we had sufficient funding. And we did
13 conclude that we did have sufficient funding to carry us
14 through that time, and perhaps even beyond to continue the
15 progress of the project. And the conclusion for us, and
16 our team, that we looked at, there was not really the need
17 to draw upon money just to draw upon money. And we could
18 work through this as we made that decision. And that's
19 what we did. And we moved it to that date. We will talk
20 to you about the timing and how that's working out when
21 you come on the 26th, to work through those details.

22 But it was really important for us, during those
23 months, that we did diligently consider which option we're
24 going to take. It will be a lift to get to that point, of
25 building the setback. We think it's the absolutely right

1 way to go for the community, that we build the setback.

2 I'm going to transition to the Corps of Engineers
3 certification effort, that I mentioned last time. There
4 is progress being made on this. We had hoped to have the
5 entire certification done by January 30th. That was very
6 ambitious too. We didn't get there, but we're close on
7 it.

8 And I'm going to turn to an attachment in the
9 Corps -- in your supplemental, there's a Corps letter that
10 they sent to us. It's dated January 30th. And on the
11 second page, there's a couple, just, items I will read to
12 you. Because I think it speaks to where we are on
13 certification.

14 And we did ask for certification on the Bear,
15 which is this area, here, in the purple area -- it may not
16 quite look purple on the map up here -- the Western
17 Pacific Interceptor Canal, and then the Yuba from -- we
18 had originally asked for a little past highway 70 -- and I
19 will address that in a second -- all way up through
20 Simpson Lane, for certification.

21 But the Corps letter to us, on this top paragraph,
22 on Page 2, the last sentence says -- and this is
23 addressing the Bear. It says, "Once we have reviewed the
24 construction records and found them acceptable, the Corps
25 will be able to certify the levee."

1 And I'm going to kind of go through a couple of
2 things we have done to get there. So the Corps has been
3 involved with our program. They believe the Bear is in
4 really great shape.

5 Next paragraph on that second page says, dealing
6 with the other portions of the levee, "The Corps is
7 also" -- "The Corps is also not yet in a position to
8 certify the remaining three reaches, but we are close.
9 QA/QC construction records were just received by the Corps
10 on January 29th, 2007."

11 And it's been a herculean task to get all that
12 stuff together, to meet the schedules. But as they work
13 through here, they believe that the levees will get there
14 and be certified. So we're working through the task. And
15 our goal is to have the levees certified, to relay back to
16 FEMA, in late February or mid March time period. We may
17 end up incrementally surveying or certifying them other
18 than just altogether. It's important that we show
19 progress. And so we'll be working with the Corps on that
20 item.

21 There are some items that I will talk to you about
22 that have come out of the certification process. The
23 Corps has -- and I personally believe this is important --
24 has taken time to look at their overall effort, be
25 involved, and do a rigorous review of what we are doing.

1 And during that rigorous review, they have come back and
2 asked us to do a couple things: They did ask us to do a
3 wave analysis on the Western Pacific Interceptor with the
4 rock wells. We turned that back in, validated them. They
5 looked at that; that was fine.

6 They have asked us to raise a little portion of
7 the Western Pacific Interceptor Canal where we found that
8 through the review, that it was a little bit low. It was
9 right over by the detention basin. We're raising that.
10 That should be completed this week. And all encroachment
11 permits were there, to do that. That work will be done.

12 On the Yuba, there was an issue last time about
13 Cemex, for a seepage berm. We talked to the Corps about
14 that. They asked us, as far as certification, to put that
15 in. That seepage berm, that was a 380-foot seepage berm.
16 It's now there. It's installed and done. So that is
17 completed.

18 There are a few other items that we had to do --
19 or needed to do, and certification. But we're doing that
20 and with due diligence, we're making it happen because of
21 the certification, and we take it seriously.

22 The next item that I wanted to address in the
23 presentation was the Caltrans maintenance yard. That was
24 a long discussion. I know, Mr. Bradley will be talking --
25 long discussion at last meeting. Mr. Bradley will be

1 giving a presentation too. I've asked Ric Reinhardt to
2 come forward and give you a recap of what we did on that.
3 It will most likely supplement what Steve did.

4 So Ric?

5 MR. REINHARDT: Good morning, President Carter,
6 Members of the Board. Ric Reinhardt, program manager for
7 Three Rivers Levee Improvement Authority.

8 At the last Board meeting, there were questions
9 raised about a detention basin that Three Rivers is
10 constructing as a requirement for acquisition of Caltrans
11 property on the Yuba River, adjacent to the seepage berm.

12 After the meeting, we provided documentation of
13 the project to Chief Engineer Steve Bradley on the plans
14 for the project, the engineering analysis that Kleinfelder
15 conducted to conclude that it -- to determine whether or
16 not an adverse impact on the integrity of the levee
17 system. And then we also provided documentation from the
18 Corps of Engineers confirming Kleinfelder's conclusion
19 that it does not.

20 We provided all that information via e-mail, but
21 in a letter dated February 16th, which is a part of your
22 supplemental package, we provided all of those things for
23 the Board members as well. And this will be discussed in
24 more detail in Mr. Bradley's presentation, unless you have
25 any questions.

1 PRESIDENT CARTER: We will hold questions until
2 staff gives their presentation.

3 MR. BRUNNER: Before I wrap up here, with the
4 building permit discussion, I think that it's really a
5 need for more to stress that Three Rivers is very willing
6 to coordinate and cooperate with the Reclamation Board
7 staff.

8 I believe that, in some of the issues that we have
9 had to date that's come up, that we have worked with the
10 Corps on a number of issues, perhaps, and we did not keep
11 the Rec Board staff in the loop. We will do that in the
12 future. I said that before. Last time, I know President
13 Carter, you asked me to do that. We will step up to the
14 plate, make sure that happens.

15 PRESIDENT CARTER: Thank you.

16 MR. BRUNNER: The -- the last thing in the -- I
17 don't have my graph. As we went through that on the
18 building permits, there's not a lot happening.

19 I'm told that after the Superbowl, the market goes
20 up, and so hopefully that's the case. And homes start to
21 build, not only in our area, but within the community, for
22 the economy. We will have the information for the
23 meeting, coming up on the 26th, and the next Board meeting
24 when we come back in March.

25 Is there any question?

1 PRESIDENT CARTER: Do we have any questions for
2 Mr. Brunner?

3 MR. ARCHER: I have one, if I could and he could
4 answer.

5 Is that permitted?

6 PRESIDENT CARTER: Yes. I have a card for you,
7 Mr. Archer. And maybe you can hold your question until
8 you make your statement.

9 MR. ARCHER: Okay. I can ask him to come up and
10 answer it then.

11 PRESIDENT CARTER: Okay. Good. Thank you. All
12 right. Thank you very much.

13 Oh, Mr. Hodgkins?

14 VICE PRESIDENT HODGKINS: I wanted to say a few
15 words to Board members and staff about the subcommittee
16 meetings and, you know, sort of the focus on catching up
17 with these folks. I have met with them on, I think, two
18 occasions, maybe three, trying to be sure that we get the
19 information that we're going to need, to be able to deal
20 with what's coming up.

21 And what's happened here simply is that the
22 setback levee, which I agree with everything that's been
23 said, and we will hear more about this at the committee
24 meeting, is a very desirable improvement to make to the
25 system. Okay? It costs more. And we will have more

1 details about that as well.

2 Because it costs more, it's less -- the
3 developers, as you may recall, when we modified the permit
4 earlier this year, the developers were already, and Three
5 Rivers was already, pointing out that the cost of the
6 project was just keeping it up, and making it a setback
7 makes it go up another big chunk.

8 And the landowners, the developers, whoever you
9 want to call them, are now concerned that going for a
10 setback is not providing them the certainty that they feel
11 they need, to continue to plow money into this program.

12 And I believe that Three Rivers and the property
13 owners and all the folks in Yuba County are working
14 diligently to find an approach that will enable the
15 program to move forward, so that the 2008 goal -- because
16 if we miss 2008, and then go to another flood season with
17 actually the worse problem in the system not yet fixed --
18 certainly, the worst remaining problem not fixed, which is
19 the Feather River Levee.

20 So the issue here that the Board is going to have
21 to deal with and the subcommittee is going to be, how do
22 we balance our need -- and I shouldn't be speaking for
23 others, because this is my need. But my need is, as long
24 as they have the ability to continue to issue building
25 permits, they need to be moving forward and continuously

1 making improvements on flood control, to flood control
2 systems. And what's happened here is now we have
3 potentially a pot of state money that might enable making
4 better improvements to the flood system to the entire
5 valley. But there is tension here over whether that can
6 be done without adding time to actually completing the
7 work and providing safety to the folks.

8 So you know, for me, my personal thinking on this
9 is -- has been, and I have relayed this to the people I
10 have been talking to, as we get ready for the subcommittee
11 meeting, I don't want to be in a position where I might
12 have to think about, look at somebody who's bought a
13 house, while progress slowed down, even though there is a
14 better system in the long run, and have them get flooded
15 in the winter of 2009. Just for me, I can't do that.

16 But I think they are going to work very hard to
17 try and find a way to be sure they can move forward with
18 this program. And that's, in effect, what they are going
19 to be presenting to us at the subcommittee meetings. And
20 we probably will hold two before the next Board meeting.
21 We will try and be sure to get those scheduled and get
22 through that enough to be able, in the March meeting, to
23 address this -- whatever comes out of this, with the Board
24 as a whole.

25 So this is -- this may all turn out to be

1 something that can be worked through very smoothly, but it
2 might also be a very tough decision for Board members
3 about our needs to protect people and -- and you know --
4 you know, make it clear that from our -- where we are on
5 building in these areas, while the work is being
6 completed; and the trade-offs that come with trying to get
7 the money that came out of that bond issue, which has to
8 go through legislature and all of that, available to do a
9 better improvement with the system.

10 So I'm not sure I said that really well, but I
11 think you get a sense of what the issues are like.

12 Could you add anything to that?

13 MR. BRUNNER: All what I would add is that the --
14 we understand the urgency. In fact, I very much
15 understand the tension.

16 We do have an interim period between now and when
17 the state can provide funds. But we have a plan that we
18 want to share with you, of how we can get there. We
19 believe that this project has great regional benefit
20 for -- and also Yuba County's benefit. And you only have
21 one shot to spend this type of money. And if it has so
22 many benefits, we should try.

23 And I think that's the sentiment of Yuba County,
24 of Three Rivers, of RD 784 and we should try, try and put
25 it together. We cannot guarantee what the state will do.

1 I hope that the state really listens to what Prop
2 1E was for, which is a project just like this, for
3 regional benefits, and we move forward and work
4 cooperatively with them to get there, and solicit your
5 help in doing that, to get the Prop 1E. We're asking for
6 early funding on the project to carry on through the
7 interim period. But it is exactly what Prop 1E was for,
8 and what we are trying to do for regional benefits
9 throughout this community that we have here in northern
10 California.

11 So when we talk to you on the 26th, you know,
12 we'll go in great detail with you, as to where we are, but
13 keep that in mind. And our goal is 2008.

14 SECRETARY DOHERTY: And on the 26th, will we be
15 discussing also what effects there will be for downstream?

16 MR. BRUNNER: I believe that can be added
17 specifically -- if not at that meeting, we'll talk
18 whatever the Board wants to talk about.

19 SECRETARY DOHERTY: Thank you.

20 VICE PRESIDENT HODGKINS: That's part of what we
21 have been talking about, being able to share at that
22 meeting.

23 SECRETARY DOHERTY: Good.

24 PRESIDENT CARTER: Thank you.

25 MR. BRUNNER: Thank you.

1 PRESIDENT CARTER: Caltrans Detention Basin
2 Report. Mr. Bradley?

3 CHIEF ENGINEER BRADLEY: For the record, Steve
4 Bradley, Chief Engineer for the Reclamation Board.

5 (Thereupon an overhead presentation was
6 presented as follows.)

7 CHIEF ENGINEER BRADLEY: I'm going to talk a
8 little bit about what Phase 4 is. The overall project
9 that Three Rivers is doing actually had four phases. The
10 first phase was some initial work on the Yuba river, a
11 slurry wall; the second phase was work on the interceptor
12 canal and a little bit of the Bear River; Phase 3, which
13 was a setback levee along the Bear River; Phase 4 was work
14 along the Feather River, at that time that was not
15 defined, and some additional work on the Yuba.

16 So this, what we're talking about today, is the
17 area of Phase 4, only along the Yuba. We are not going to
18 be discussing the Feather River.

19 --o0o--

20 CHIEF ENGINEER BRADLEY: On the Phase 4 Yuba River
21 work, there were actually five reaches that they wanted to
22 do work in: Reach A, which is west of Highway 70; Reach
23 B, immediately east of Highway 70; Reach C, from Reach B
24 not quite up to the break area; Reach D, near the
25 railroad; and then Reach E, that stretched all the way up

1 from the railroad to Central all the way up to Simpson
2 Lane. That was a slurry wall that was permitted under
3 Permit 18095.

4 All these -- these five reaches were requested
5 under 18095. We did not receive all the drawings we
6 needed to permit them. Only Reach E was permitted. So A,
7 B, C, and D are not under permit at the moment.

8 There has been some questions about sloping on the
9 water side. That is in Reach C, in this area. That has
10 not been permitted at the moment. It's not part of the
11 permit, mostly because we didn't receive design drawings
12 to make any determination on that.

13 So there's been some questions as to whether
14 that's going to be done, whether it has to be done. I
15 think those are questions for the future. Basically, when
16 you issue a permit for things, it is permission to do
17 something, but it's not a requirement to do something.

18 In this case, we're talking about flood control
19 improvements. So it's kind of an unusual animal. And the
20 Board will have to decide whether they want that done in
21 the future, if that becomes an issue, when we come forward
22 with more work under here.

23 --o0o--

24 CHIEF ENGINEER BRADLEY: This is the same area, a
25 little bit reduced. We're going to be talking about the

1 Caltrans Detention Basin, which is in this area. It's a
2 drainage detention basin. It's adjacent to our levee.
3 And Three Rivers is constructing it for Caltrans.

4 --o0o--

5 CHIEF ENGINEER BRADLEY: Sort of a blowup of the
6 entire site. There's the detention basin. Drainage comes
7 in this way, along the paved asphalted channel, drains
8 into the drainage basin, eventually comes out, drains out
9 here, drains into a drainage ditch that comes around here,
10 and comes back out, and drains into overflow lands later.
11 At least that's my understanding of it.

12 --o0o--

13 CHIEF ENGINEER BRADLEY: A little bit more of a
14 blowup so that you can see more of the details. Again,
15 here's the inlet that drains in. There is an overflow in
16 this area, so that if the basin gets too full, it flows
17 out into the drainage ditch, and then drains out into the
18 overflow land, or under normal operation, it drains out
19 through this pipe, picked up in the ditch that comes
20 around, and then out into the overflow area.

21 SECRETARY DOHERTY: The overflow area, now isn't
22 that heading north and isn't that going uphill?

23 CHIEF ENGINEER BRADLEY: It's not -- it's actually
24 heading --

25 SECRETARY DOHERTY: You're standing on the levee

1 looking down at that pond, right there.

2 CHIEF ENGINEER BRADLEY: Right. And you would be
3 looking pretty much south at that time.

4 SECRETARY DOHERTY: I would be looking south. But
5 then you're saying the water would flow --

6 CHIEF ENGINEER BRADLEY: The drainage -- yeah,
7 comes around. The drainage is essentially running east,
8 and then it drains to the south on some overflow land out
9 there. Just on...

10 SECRETARY DOHERTY: Where is the levee in relation
11 to the triangle?

12 CHIEF ENGINEER BRADLEY: The levee and the seepage
13 berm are directly to the north.

14 SECRETARY DOHERTY: Okay.

15 CHIEF ENGINEER BRADLEY: Let me see if I can --

16 SECRETARY DOHERTY: All right. In other words,
17 that's the long levee on the top of this picture, as I
18 look at it.

19 CHIEF ENGINEER BRADLEY: Well, it's not really
20 showing the levee on this picture.

21 SECRETARY DOHERTY: No, it's not. But if I were
22 standing on the levee looking down --

23 CHIEF ENGINEER BRADLEY: Right. It would be
24 right --

25 SECRETARY DOHERTY: I would be right at the top.

1 Okay. So then it would be flowing out towards where that
2 sand berm had been placed -- well, we saw it months ago.

3 CHIEF ENGINEER BRADLEY: The sand berm is actually
4 due north of here.

5 SECRETARY DOHERTY: Right. And then, so it's
6 going to be flowing east toward Simpson Lane.

7 CHIEF ENGINEER BRADLEY: Right. Not very far. It
8 doesn't go to Simpson Lane that far.

9 SECRETARY DOHERTY: Well, no. Right. That's the
10 direction. You're going towards that, heading north.

11 CHIEF ENGINEER BRADLEY: It's heading due east,
12 and then it flows out pretty much to the south, out of a
13 pipe.

14 SECRETARY DOHERTY: All right. And where does
15 that go?

16 CHIEF ENGINEER BRADLEY: It just drains out into
17 vacant land.

18 I have some photos here. We made a field trip on
19 February 7th up here. You're standing on the levee, here.
20 You can see the detention basin. East is to your left, so
21 you are looking pretty much due south. Here's the berm
22 around the detention basin. Here's the seepage berm
23 against the levee. And this is the foreground as you're
24 standing on the levee. So you are standing on the levee
25 looking due south, right across the detention basin.

1 --o0o--

2 CHIEF ENGINEER BRADLEY: Here's a view, more or
3 less, from the northwest. You are looking sort of
4 southeast, across the detention basin. You can see it in
5 here. Caltrans yard in the background. You're looking
6 right down along the seepage berm, along the levee. This
7 is the narrow part of the seepage berm. In the background
8 you can see the wider portion of the seepage berm right
9 back in here. It's not real clear on the overhead here.
10 And then this is the levee right here, the seepage berm.

11 --o0o--

12 CHIEF ENGINEER BRADLEY: A little bit closer
13 picture: Again, the levee surrounds the seepage berm.
14 Here's your cut for the overflow, I believe, right here,
15 that drains into the ditches right along this area.

16 This is the levee here. The levee seepage berm.
17 And then there's a roadway along the edge of that. And
18 then there's a drop-off to the toe of the seepage berm.
19 And within there there's some drainage ditches.

20 --o0o--

21

22 CHIEF ENGINEER BRADLEY: This is this inlet
23 construction photo. One of the inspectors went up, I
24 believe, on January 31st, and looked at this. This was
25 under construction at the time. The pipe comes in this

1 way. This is going into the detention basin. This is the
2 detention basin back, so it's flowing in, right here.

3 --o0o--

4 CHIEF ENGINEER BRADLEY: This is a picture, a
5 little over a week later, after they have done all the
6 work.

7 Again, the detention -- the asphalted channel
8 that's picking up drainage and bringing it in, flows in
9 through here, in through the detention basin.

10 --o0o--

11 CHIEF ENGINEER BRADLEY: Another little look at,
12 again, some inflow. There's a pipe that picks up some
13 detention basin -- not detention basin, but some local
14 drainage and also flows into that area.

15 --o0o--

16 CHIEF ENGINEER BRADLEY: This is a construction
17 photo of the ditches. To your right is the seepage berm
18 along the levee. Water is flowing -- let's see here --
19 you are looking up stream at the detention basin, so it's
20 flowing this way.

21 This is a construction photo taken by our
22 inspector, flowing this way and then the detention basin.
23 When you get enough flow or you are draining the basin, it
24 comes out and it's in this channel, flows out and around
25 and then flows out into the land out that way, if I've got

1 it right. I'm looking at it -- oh, I'm looking at -- oh,
2 I'm sorry. The detention basin is back here. And so the
3 flow is coming in, in this channel, into the detention
4 basin, sits in the detention basin. If it fills too much,
5 it goes over the overflow. Or if they want to drain it,
6 it flows out and comes into this ditch, which is an
7 unlined -- will be an unlined ditch, comes this way and
8 eventually follows out to the south.

9 Did I confuse you?

10 PRESIDENT CARTER: No.

11 CHIEF ENGINEER BRADLEY: Okay. Okay. Thank you.

12 --o0o--

13 CHIEF ENGINEER BRADLEY: Again, some construction
14 photos shows the -- right here, in the foreground, shows
15 the seepage berm, the toe of it, right here, the ditch,
16 the outflow ditch, the drainage ditch, the inflow ditch,
17 which is lined, and then just part of the Caltrans area in
18 the back; not the drainage ditch, just a shot of it.

19 --o0o--

20 CHIEF ENGINEER BRADLEY: Here again, construction
21 photos, you are looking up the levee -- actually, you are
22 looking up the seepage berm for the levee. There's an
23 access road along the toe here, more or less above the
24 toe. Drainage ditch coming into the basin, and overflow
25 drainage out -- comes out here, in this area back, in this

1 area that's out there here.

2 I believe that's Wal-Mart way in the background.

3 --o0o--

4 CHIEF ENGINEER BRADLEY: And then finally, we're
5 looking again from the northwest or west right down along
6 the end of the detention basin. Detention basin goes
7 around here. This is part of the drainage ditch coming
8 around this way and coming out.

9 Under the Rec Board's permit for the seepage
10 basin, we had two conditions in that permit. One is that
11 prior to construction, they would transfer the easements
12 to us that are required for the project that they are
13 building, including 10 feet from the seepage berm toe.
14 The other set is that the seepage berm is part of the
15 flood control project. So all that is in their permit to
16 construct. As you can see, the drainage ditches and
17 seepage berms -- well, not seepage berms, but the
18 detention basin, or these parts of it, are within that
19 10 feet, very close.

20 The conclusions of staff are that the project is
21 an unauthorized encroachment on the flood control system,
22 and that an approved Board permit was required prior to
23 implementation of the project.

24 If nothing else, they should have coordinated with
25 us. They need permits or need to ask the Reclamation

1 Board, at least, if there's a possibility of it affecting
2 the flood control project.

3 Right now, we have several options, I guess, or
4 direction. This is not an action item, so there's no
5 Board. But staff can deal with this internally, or it can
6 be brought back for Board action.

7 If staff deals with it internally, I believe we
8 will put it under permit and hopefully that would take
9 care of everything.

10 Our concern is, is that it's close enough to the
11 detention basin. Caltrans could go in there in the
12 future, when this is turned over to them, deepen the
13 basin, which may be a problem. Right now, that basin is
14 about 2 feet below the existing ground level, not in my
15 opinion, a problem. But if they deepen it to four or five
16 feet, it could be a problem. There's a lot of sand in
17 this area, could start flowing water under the levee.

18 The detention basin actually looks a little deeper
19 because they cut it down 2 feet and they built up the
20 levee around it, about three and a half feet, so it looks
21 like it's five to five and a half feet deep, but actually
22 it's only about two feet deep below the natural ground
23 level there.

24 I guess with that, I would ask if there are any
25 Board -- if the Board has any directions, would you want

1 to hear this or staff would be --

2 MEMBER RIE: I have a question. You said the
3 seepage berm is proposed to be a Board easement, but it's
4 not yet. How close is the detention basin to the seepage
5 berm?

6 CHIEF ENGINEER BRADLEY: The detention basin
7 itself is around 25 feet.

8 MEMBER RIE: Okay. So is the detention basin
9 within the additional 10 feet?

10 CHIEF ENGINEER BRADLEY: Actually, the detention
11 basin as the regs say, is 25 feet. We actually took a
12 permit from Wal-Mart in this area, 300 feet away, because
13 they were digging a deeper basin. They were about 6 or
14 8 feet down. And there's a lot of sand. We made them
15 take a permit and provide geotechnical information that
16 there were no connecting sand berms to the river.

17 MEMBER RIE: But in your previous permit
18 conditions, you specifically asked for an easement for the
19 footprint of the seepage berm plus ten additional feet --

20 CHIEF ENGINEER BRADLEY: Plus ten.

21 MEMBER RIE: Plus ten. And the detention basin is
22 outside of the ten.

23 CHIEF ENGINEER BRADLEY: The drainage channels are
24 within that 10 feet.

25 MEMBER RIE: But the basin itself --

1 CHIEF ENGINEER BRADLEY: The project is being
2 constructed within 10 feet of the toe.

3 SECRETARY DOHERTY: But the drainage channels are
4 inside the 10 feet?

5 CHIEF ENGINEER BRADLEY: They are.

6 VICE PRESIDENT HODGKINS: Steve? You did a good
7 job in presenting this. And I think the challenge here is
8 that what's happening is a -- and I haven't thought about
9 this before. But if something is being constructed that
10 perhaps right now -- I don't want to argue about whether
11 it really has a significant impact on the system, as it
12 exists right now. I don't really think that's the issue.

13 And I think that's opened up -- it's open to
14 interpretation. But the point that Steve makes is very
15 valid, is once it's constructed and presumably turned back
16 over to Caltrans, is thinking about what might happen, is
17 that correct, they could go in there and deepen there
18 this. And that could potentially affect the levee.

19 And so I think he raises a very valid issue. And
20 there's a -- you know, a balance here between a strict
21 interpretation of the regulations and what really makes
22 sense in terms of what we should -- we and our
23 staff should be doing in the future.

24 And help me understand, Steve, if -- if it's under
25 permit the first time, does that mean, then, that any

1 modification of it, even if it passes on to a different
2 owner than applied for the original permit, is -- has to
3 get a permit?

4 CHIEF ENGINEER BRADLEY: Yes. We would make a
5 name transfer. Right now, I believe this permit is in the
6 name of Three Rivers Levee Improvement Authority. When
7 they transfer it to Caltrans we would ask them to -- they
8 would be required to make a name change. We would change
9 the name on the permit, and be given a letter A as a
10 modification to an existing permit.

11 And then if they wanted to do something to that
12 change -- the depth of it, to change the orientation of
13 it -- we would take a permit for that, for at least
14 maybe -- there's a lot of ways to handle that. But we
15 would look at what they are doing and provide permission
16 for that.

17 I think your point is valid. It's not whether
18 this is significant or not. If it is a significant
19 problem, we wouldn't do it at all. The question is, it's
20 something that probably ought to be on the permit, because
21 it's very close to the flood control facility. And we
22 would like to have control over this, in the future.

23 VICE PRESIDENT HODGKINS: And you know, from that
24 standpoint, to me, if there's no objection from Three
25 Rivers, I think it does make sense to have your folks go

1 through the permitting process on this.

2 But I also know that local jurisdictions guard
3 zealously, not doing things that potentially set
4 precedence, that might be an infringement on their rights
5 in the future. And part of what motivates that, in this
6 condition -- now I'm speaking from SAFCA, although I'm
7 pretty sure Three Rivers would be right here, is you don't
8 want to come over here if you don't have to, because you
9 just added a bunch of time to doing whatever it is you
10 ought to do.

11 So you try and look strictly and very carefully at
12 the regulations and decide whether you are required to get
13 a permit. And if you are not required, because we add
14 time -- and if you don't understand that, look at the
15 backlog of permits and things that are significant to
16 local agencies, you don't want to come here if you don't
17 have to, because it's just -- it's viewed by a permittee
18 as a delay. So you cut it pretty close. And SAFCA at
19 least was a flood control agency. When the land use
20 agencies get involved, they really cut it close.

21 So we want to be careful not to invoke, here, or
22 to cause a debate that we really -- I don't think we
23 really need to have.

24 I think Steve's point is well taken. In the long
25 run, this ought to be under permit so that if Caltrans

1 decides to modify it, they have to let us know what they
2 are doing, because Caltrans might not think about its
3 impact on the levees. Strictly speaking, I think we could
4 argue for a long time about whether absolutely they were
5 required to come and get a permit. But I don't think we
6 should do that.

7 If they are willing to go forward now, under a
8 permit on this detention basin, and think about also, you
9 know, given the discussion here, that you do need to make
10 us aware -- and staff, you need to -- again, with my old
11 SAFCA hat on and I wear it a lot, I know. But you need to
12 think about the fact that if somebody gets caught up in a
13 big process over here where they are going to get in line
14 and wait three months, before the permit gets to the
15 Board, then -- then that is a problem when they are trying
16 to get something done.

17 But I guess -- I think that this gets to the
18 coordination issue and the reasonable discussion issue on
19 both sides, to figure out a way to help the applicant go
20 forward with what he wants to do but protect our interest.
21 And I don't know.

22 Are there other questions here?

23 SECRETARY DOHERTY: At our last meeting, you said
24 something: Sometimes it's easier to proceed and then say
25 "Oh, I'm sorry." And then, you know -- and so, what

1 happens if Caltrans says, "Okay, I'm going to deepen this.
2 You know, nobody will catch us."

3 "Oh, did I need a permit? Did I need to consider
4 this?"

5 So I don't know. We've got a problem, I think, a
6 little bit.

7 VICE PRESIDENT HODGKINS: We do. And we have a
8 bigger problem that I think gets into our regulations.
9 Because believe me, there are lots of things that go on,
10 that are outside of the 15 feet that we never even find
11 out about. Okay? Because people don't understand the
12 need to -- would you agree with that, Steve?

13 CHIEF ENGINEER BRADLEY: Yes.

14 VICE PRESIDENT HODGKINS: They don't understand.
15 And that's a regulation and a policy and notification
16 issue, that you can't -- I don't think we can address that
17 right here. That's a strategic issue that we ought to
18 talk about in terms of our strategic plans.

19 Right here, what we have is a agency who is doing
20 the best we can to get things done quickly. It's my
21 understanding that they work through, with the Corps on
22 this, because they want the Corps certification, and
23 letting them back on the system and the Corps agreed with
24 their conclusion that there wasn't. Okay? They never
25 talked to staff about the detention basin, I don't think,

1 because their interpretations of the regulations would
2 have been the same as SAFCA's. It doesn't have an impact
3 on the system, and it's outside the 25 feet, you don't
4 need to do anything. Now, there's a piece of this that's
5 inside the 25 feet.

6 So you know -- I don't think those are the issues
7 we want to get into an argument about here. I think what
8 there is here, is a good reason this thing should be
9 permitted in the long run. And without fighting about the
10 details of jurisdiction, can we just get an agreement that
11 we are going to permit this and move forward?

12 Would that be all right with you for now, Steve?

13 CHIEF ENGINEER BRADLEY: I think that's kind of
14 the way I was planning on proceeding, unless the Board
15 wants to hear this. I mean, there's --

16 MEMBER RIE: Can I speak, Mr. Bradley?

17 CHIEF ENGINEER BRADLEY: If you have to hear this,
18 we have to bring it back.

19 PRESIDENT CARTER: What I'd like to do, if we
20 could, please, we've got a couple of people from the
21 public that mentioned they want to speak on this
22 particular item.

23 I would ask, Mr. Archer, do you have something to
24 specifically say about the Caltrans detention basin?

25 MR. ARCHER: I do.

1 PRESIDENT CARTER: Okay. You've got five minutes.

2 MR. ARCHER: Right now?

3 PRESIDENT CARTER: Right now.

4 MR. ARCHER: I'm Rex Archer from Linda, RD 784.

5 That detention, the sand berm, I have never had
6 any problems at all with either one of them. Now, the
7 detention thing, you are talking here about -- they have
8 already committed a -- not a crime but an infraction by
9 going ahead and doing a project without even telling you
10 people. I brought it to your attention myself at the last
11 meeting. I brought it to their attention at the last
12 meeting. Now you are talking about forgiving them and
13 letting them go on.

14 Why have rules and regulations, President, if you
15 can't enforce it -- if you don't enforce them? If we are
16 going to have rules and then say, "But if you don't do
17 them, well, try to do them."

18 I live just below that place. What they are
19 doing, when I finish here today, you are going to see what
20 they are doing has put my life and Wal-Mart people at
21 risk. And that detention thing is a mere part of this.

22 Now, if you permit them to walk away with this,
23 you just as well closed this Board up, because we have no
24 control, Mr. Hodgkins, Mr. Vice President. We have no
25 control after this, if you do that. That's all I have to

1 say.

2 PRESIDENT CARTER: Thank you.

3 Mr. Foley, do you have something to say
4 specifically about the detention basin?

5 MR. FOLEY: No.

6 PRESIDENT CARTER: Okay.

7 MR. BRUNNER: President Carter, may I approach? I
8 may have a suitable alternative.

9 PRESIDENT CARTER: Go ahead.

10 MR. BRUNNER: Listening to what Steve was saying,
11 I think he has merit in his comment about it's only coming
12 in, in the future to do that.

13 I think that we proceeded in the bounds of how we
14 do levee work and was the permit needed originally? Our
15 conclusion is no. But I think his point is well taken.
16 We'll do what the Board wants.

17 But the alternative is, is that we have a way to
18 actually maybe do it even better than just do a permit and
19 save time, is the -- for staff that has a lot on their
20 plate and where we are going.

21 We are in the process of purchasing that property,
22 and we will be acquiring fee title. We can put the
23 requirement of the Rec Board and water, not deepening it,
24 in the deed and make it a requirement to record the action
25 that they must do that to proceed forward, and put it in

1 the deed.

2 PRESIDENT CARTER: Okay. Thank you.

3 VICE PRESIDENT HODGKINS: Would you be willing --
4 I don't know.

5 Steve, is that a reasonable approach from your
6 standpoint?

7 CHIEF ENGINEER BRADLEY: Land-wise, it's a
8 stronger thing. But permit-wise, when you are under
9 permit, they are on notice that they need to come to the
10 Rec Board. I don't know. That would be up to Scott.

11 My suggestion with this, to get rid of it, is we
12 just put it under permit. Typically a permit is a request
13 to do something, not to authorize something. We do these
14 on occasion. There are a surprising amount of a number of
15 things that happen on our flood control system without our
16 knowledge. If we determine basically that it isn't a
17 major problem, we go ahead and bring it under permit
18 typically.

19 This actually, in my opinion, does need a permit.
20 They are doing work within the area that the Rec Board
21 would normally regulate. Now, is that substantial or have
22 a substantial impact? Not at the moment, in my opinion.
23 But we don't know what's going to happen in the future.
24 They go out and they clean the drainage ditch and instead
25 of leaving it a foot deep, they cut it at three feet deep.

1 All of these things will happen. We've seen it -- it's
2 sort of a creep over time that happens.

3 I'm not sure why the reluctance to go for a
4 permit. The regs actually say that if it would have
5 something, they should have applied for a permit.

6 And then, if it's determined that it has an
7 impact, then they have to comply with the regulations of
8 Title 23. At that point, if they wanted a variance to it,
9 it would be brought to the Board. But typically, this
10 would be -- have been a permitted activity.

11 PRESIDENT CARTER: Ms. Rie?

12 MEMBER RIE: I don't disagree with anything you
13 say. However, if I were the applicant -- and I'm reading
14 the Water Code, it says, "Drainage activities are exempt."

15 So why would they apply for a permit if they are
16 exempt?

17 CHIEF ENGINEER BRADLEY: Because they are working
18 withing the Board's regulated area.

19 MEMBER RIE: Are we sure?

20 CHIEF ENGINEER BRADLEY: Yes.

21 PRESIDENT CARTER: So --

22 VICE PRESIDENT HODGKINS: Steve, what I would like
23 to do is avoid going into the issue of exactly what the
24 regs say and all of that, here, this morning.

25 What I would like is you guys to agree to get this

1 permitted, and then have staff come back where they have a
2 chance to really look through the details, here, give us
3 the staff report on what the regs say, and let us think
4 about what, if anything, we need to do to bridge with what
5 I think -- and again, this is with -- having to deal with
6 getting permits, when you are trying to get something
7 done -- we should do about the issue of what the regs say.

8 PRESIDENT CARTER: So is there -- is there any
9 issue, is there any problem with going ahead with a permit
10 on this? I know this is not an action item.

11 CHIEF ENGINEER BRADLEY: I'm just asking for
12 direction from the Board. Does the Board want to hear
13 this again, or bring it back for an action? Or is it okay
14 if staff addresses the issue?

15 PRESIDENT CARTER: What's the pleasure of the
16 Board here.

17 MEMBER RIE: You know, I share your concerns. But
18 I guess I'm having trouble with this. The specific Water
19 Code section is 8710.1. And it says, "Interior drainage
20 works are exempt." So I'm just having trouble trying to
21 force an applicant to apply for a permit when they don't
22 have to.

23 CHIEF ENGINEER BRADLEY: Well, I think that this
24 has the potential to have an impact on the flood control
25 system, especially in an area where we have a levee

1 failure and have half a billion dollars in lawsuits.

2 This area is notorious for sand seepage areas, old
3 channel meanders, which is what caused the '86 failure. I
4 think this is something that we ought to keep an eye on.

5 This whole area is hydraulic mining fill, many,
6 many feet. So there's lots of seepage through this area.

7 They have had seepage on all these levees at
8 various times. It just hasn't failed. Sometimes seepage
9 isn't bad; it just relieves the pressure. As long as it
10 isn't moving material from the levee, we're fine. And it
11 just leaks -- happens all over the system -- when it
12 starts moving material or undermines the levee and causes
13 failure. But I think that this has the potential to do
14 that if it's not taken care of properly.

15 SECRETARY DOHERTY: I would like it brought back
16 to us.

17 VICE PRESIDENT HODGKINS: I'm going to ask a
18 question. I think the issue we can't drop, because of
19 some truth or some fundamental policy issues related to
20 your comment. Are you willing to work with staff and get
21 this damn thing permitted? I need you to answer that
22 question. Step up: Yes or no?

23 CHIEF ENGINEER BRADLEY: Yes, I was --

24 VICE PRESIDENT HODGKINS: Not you. Them.

25 MR. BRUNNER: The simple answer is yes. And we'll

1 actually do both: the deed and the permit.

2 VICE PRESIDENT HODGKINS: Okay. So they are
3 willing to get it permitted. I would like to say that we
4 want them to get the application in and work cooperatively
5 with staff to give them what they need to get, a permit,
6 so we don't have to deal with their permit as an issue.

7 And then the other part would be, in our overall
8 priorities here, we need to give Steve an opportunity, and
9 Scott, to tell us what the regs say and explain to us -- I
10 mean, I think Steve's right in that he knows a lot more
11 about what's going on out there than the average person
12 does.

13 The problem is, the average person doesn't know
14 they are having a potential impact on the system because
15 you don't know enough about flood control, and so you
16 don't even think about whether you need a permit. And
17 that's an issue that needs to be addressed, either with
18 additional information, and that would be supplemental to
19 the regs or making it clear in the regs, that there are
20 areas of the system where we want to see any permits for
21 anything greater than, you know, any excavation -- you
22 know, I dealt with swimming pools where --

23 PRESIDENT CARTER: So I think probably the --
24 there's a general consensus that -- amongst applicant,
25 staff, and the Board, that a permit -- we ought to go

1 ahead with a permit for this particular project.

2 The question I have is just: Is the Board
3 comfortable in allowing staff to handle this permit, or do
4 we want to hear this permit before the Board at a future
5 meeting?

6 MEMBER RIE: I would like this to come back.

7 SECRETARY DOHERTY: I would also like it to come
8 back.

9 PRESIDENT CARTER: Okay. So we would like it to
10 come back to the Board at a future meeting.

11 CHIEF ENGINEER BRADLEY: Thank you.

12 PRESIDENT CARTER: Okay. Thank you.

13 Let's take a ten-minute recess and we will
14 continue with this item. We have some more public comment
15 regarding this item.

16 (Thereupon a break was taken in
17 proceedings.)

18 PRESIDENT CARTER: So as I stated before we
19 recessed, I have some public comment on Item 8, still out
20 there.

21 So with that, Mr. Archer, did you want to address
22 the Board on the Three Rivers Levee Improvement Authority
23 monthly report?

24 MR. ARCHER: I do. Thank you.

25 Could you help me, sir?

1 PRESIDENT CARTER: I remind you, please try and
2 limit your comments to five minutes.

3 MR. ARCHER: I'm going to speak for my wife, too.
4 Is that all right? She's from Linda. She has five
5 minutes to talk also, but I want to speak for her.

6 Is that all right with you?

7 PRESIDENT CARTER: You have five minutes.

8 MR. ARCHER: Okay.

9 (Thereupon an overhead presentation was
10 presented as follows.)

11 MR. ARCHER: All right. The map I just put up
12 there is the levee that I've talked about, not the
13 detention ponds, not the sand berms, none of that.

14 Can you see it? All right.

15 Down here on the left, my left, is A. That's the
16 one that you just said -- and B, and C, and D -- that
17 there's no permits for. Is that what I heard a minute
18 ago, that there's no permit for A, B, and C?

19 CHIEF ENGINEER BRADLEY: That's correct. A, B, C,
20 and D. We issued a permit only for D.

21 MR. BRUNNER: Clarification. I got to speak to
22 this --

23 PRESIDENT CARTER: You will be given an
24 opportunity, Mr. Brunner.

25 MR. BRUNNER: It deals with phasing of the work.

1 MR. ARCHER: Could I continue --

2 PRESIDENT CARTER: Mr. Brunner, please take a
3 seat.

4 MR. ARCHER: -- and ask him the question?

5 A, B, and E is what I want to address here today.

6 A, B, and E. I have a permit here from the Rec Board that
7 says that that is permitted. And it even describes and
8 it's covered by the Corps of Engineer permit also. The
9 Corps permit, I will go to first, says, that you are to --
10 they are to do approximately 4,100 linear feet and flatten
11 the waterside slope, the waterside slope, to a
12 three-to-one grade and placing riprap along approximately
13 400 linear feet of waterside slope of the left bank of the
14 Yuba River. That's the Corps.

15 Your permit says to construct approximately 6,800
16 linear feet of slurry or cutoff wall. That's E beyond.
17 That's up there. So that's out of the way. A
18 380-linear-foot land side seepage berm. That is on E,
19 right there; and flatten the waterside slope to a minimum
20 grade of three-to-one of the left or south bank levee of
21 the Yuba river. Now, that is from here to here.

22 But this area right here, that I have marked in
23 red, all right, that's A, B, and C. C ends right here. D
24 starts down here. And then E starts there. This is no
25 man's land. That's between where C ends and D starts.

1 That's where the levee broke in 1986. They will not
2 address that area.

3 Now, you can -- please understand what I'm saying.
4 They will not address that area. They even kept it off of
5 their map. And that's this thing I have addressed over
6 and over, before every board, is please look at that
7 section. I don't care about to the right, to the left,
8 down at the Western Pacific. I don't care about the
9 Feather River. I do care about it. But right there is
10 where it broke, in 1986. Right there is where the
11 boulders are. What the Corps said means nothing.

12 Right there is when you throw those boulders in
13 there. They didn't land perfectly square here and there.
14 They landed however they landed, and that left holes
15 between them. That left places for water to flow. And
16 believe me, in 1996 and '97, you all know that was a heavy
17 winter. Water flowed under that levee. I stood on it, as
18 president of 784, and I saw that pond growing out there,
19 where Wal-Mart is now. And that is -- that was the trench
20 that's under there.

21 So that lets water from the high water, go under
22 our levee, go through those rocks, follow the trench, and
23 exit on the land side. It done it two years in a row. We
24 didn't have any winter from '86 to '96. We didn't have
25 any winter from '97 to now. We had a little thing last

1 year, which none of us people that know flooding would
2 even call a winter, for this levee I'm talking about,
3 because it only come to the bottom of the levee.

4 You can't test sand berms, which I don't care
5 about sand berms. They can put ten of them out there.
6 I'm talking about under seepage that comes under, through
7 those boulders, in no man's land, which TRLIA -- this is
8 their map; this is not Rex Archer's map. This is TRLIA's
9 map. Okay.

10 And then it says -- and it's approved. That, by
11 the way, is 18095 GM. Now, you can say it's not approved.
12 But under A, September the 1st through September the 15th;
13 B is to be done between August 1st, August 30th; E is to
14 be done between July 1st and October 31st.

15 Now, they come here, they get a permit, they tell
16 you, "We will fix this levee. From here to there, it will
17 be a 200-year levee. Let us accelerate this area down
18 here." You let them accelerate it. They put in nothing
19 but a levee -- a slurry wall. Nothing but a slurry wall
20 in E. Believe me, nothing. They only put that one thing
21 out of this whole program, until last month, when I caught
22 them.

23 Under the Freedom of Information Act, I got your
24 permit here. If I hadn't have got it, this wouldn't be
25 going on today, and I would probably get -- well, so, they

1 did not put this slurry wall -- this sand berm down here.

2 I told them about it in open business -- or open meeting.

3 I told you about it in your open meeting. They
4 finally sent to you, that same day, a request. You sent
5 them a permit, way after the fact, to put that in. Now
6 it's in, during the time when you are not even supposed to
7 work on levees. Once again, they violated your -- the
8 rules. That's two I've seen today here. Okay?

9 Down here, they haven't flattened the side of that
10 levee. You can go in there. Some of you were down there
11 not too long ago. And you watch that levee. It's
12 supposed to be to be flat. You can look down. It goes
13 like this. It's -- it needs work bad. But they won't
14 touch it. Why won't they touch it? Is it the boulders
15 that they say doesn't mean anything? Is it because that
16 levee is built on the old, original Yuba River? The Yuba
17 River used to run up here. But it was blocked off back
18 here and -- no, I'm sorry. It used to run right along
19 that levee, but it was blocked off up here. Now it runs
20 and comes in over here. And the Corps of Engineers, John
21 Hess, said, "That's a gentle river." Nobody that's around
22 floods knows -- calls the Yuba River a "gentle river." It
23 is not gentle. It's uncontrolled in two tributaries. It
24 has one dam holding the third one. And when it comes now,
25 it doesn't run beside that levee. It smashes into that

1 levee, head on.

2 No man's land; the permit is valid. I have the
3 time here where it's supposed to go. They done part of
4 the work. They rushed down here and got another permit to
5 do it later.

6 I can't defeat changing the rules after they've
7 already done it. I can only say, I live just below that
8 levee. I've lived there 47 years. I was president of the
9 784. I was 24 years as a deputy with Yuba County sheriff,
10 off and on. Different things there. I don't do this for
11 the fun of it; I do it for my home. Now there's a
12 Wal-Mart there.

13 Now think about this one --

14 PRESIDENT CARTER: Mr. Archer, wrap up.

15 MR. ARCHER: I'm going to take about two more
16 seconds.

17 This Wal-Mart store will be full. They always
18 are; 1500 people. When that levee breaks, there's three
19 exits out of there. All three of those exits exit on the
20 same road, North Beale Road. It's a swamp road by itself.
21 So when that levee breaks and somebody says, "Hey," you
22 are going to have a real conglomeration there. And you
23 can stop it by removing any further permits to Three
24 Rivers or Yuba County. And let me promote the new -- the
25 programs that's there now, to let the state and feds get

1 back in this and get money from the state.

2 The developers are not dumb. They see what I'm
3 saying, and they are not going to put money in this kind
4 of stuff.

5 PRESIDENT CARTER: Thank you.

6 Mr. Foley?

7 MR. FOLEY: Good morning, Board Chairman, General
8 Manager, Scott.

9 Tom Foley, Yuba City. I'm the director of a small
10 nonprofit group concerned with flooding.

11 I agree very much with Mr. Archer. I do not --
12 it's coming to light. I dealt with this since '04. And
13 it seems -- it's coming -- it's clear that Three Rivers is
14 probably not qualified as a levee agency for an urban
15 area. It has a different consideration of public safety.

16 I have -- I gave you a newspaper article about
17 what goes to the public, about what the public reads. The
18 public would probably be lead to believe that the '08 is
19 on track. But where is the money?

20 And I would also like for Mr. Brunner to hear
21 today -- who in DWR is talking to Mr. Brunner about Prop
22 1E funds? Who is the person assuring Mr. Brunner? It's
23 in the paper that he has -- that the public is depending
24 on reading the paper, to assume that Three Rivers has some
25 sort of assurances from DWR. Now, who is the person from

1 DWR that is giving assurances to TRLIA about 1E funds?

2 That's not possible.

3 Also, I've had there with -- the next study there.

4 I don't think you are going to read it now, but it was a

5 study funded by -- yeah, I guess funded by Yuba County.

6 And it's called the Nexus Fee Study. The number there is

7 \$200 million for developer impact fees. Those fees are

8 the same, sewer fees, school fees, their impact fees,

9 developer impact fees. There is a Nexus study done of
10 \$200 million.

11 Now, coming up, to 26th, what surprises are due
12 for the public about that number? And how much time -- I
13 attended a meeting in '05, the subcommittee meetings,
14 developers funding buildings. How much time -- how much
15 months or years are going to be wasted while developers
16 whittle down their infrastructure impact fees?

17 So how much -- the Board needs to -- the Board has
18 a very strong hand in flood control issues, very strong
19 powers. The Board was formed for conflict between private
20 interests and public interests. Those conflicts remain.
21 The Board -- the public, they need to say no, to stop
22 interests in times. It's a big part of their function.

23 I would just like a heads-up to what's coming up
24 at these subcommittee meetings. It's that
25 200 million-dollar figure out there that -- you guys are

1 also given assurances during this time, last year, when
2 before you was restrictions, about that number, the 135 --
3 it's in the transcript. Mr. Shapiro said comparable with
4 \$200 million, 201 or something like that. So that's a
5 number that the public -- for Nexus fee study.

6 Thank you.

7 PRESIDENT CARTER: Very good.

8 Mr. Brunner, did you want to -- want to take a
9 couple of moments?

10 MR. BRUNNER: Just a few moments. The Three
11 Rivers has built a lot of levees: Bear, Western Pacific
12 Interceptor Canal, Yuba. We believe they have all been
13 built soundly, in compliance with the process of the
14 permits. We would be glad to go through that process with
15 you. In fact, I think there's an opportunity on the draft
16 agenda to see if you can address that, to walk that
17 through with the Board, if there is still a question on
18 that.

19 We believe that that section that Mr. Archer
20 continues to talk to, where the boulders are, Mr. Hess
21 addressed that very clearly in the last meeting that was
22 here, as to where we are, has been involved in the
23 process, and that it is a sound solution. And that's
24 really all I have to say.

25 Thank you.

1 PRESIDENT CARTER: Thank you. I have one comment:
2 I appreciate Mr. Archer and Mr. Foley coming and making
3 statements before the Board and bringing things to the
4 attention of the Board, that the Board is unaware of.
5 That is very helpful, given the short resources that the
6 Board staff has in terms of following up on these things.
7 I do truly appreciate that.

8 If there are issues with applicants and permitted
9 or non-permitted actions that are brought before the
10 Board, I assure you that the Board and the staff will
11 follow up on that.

12 I don't think we have all the answers to all the
13 questions and issues that were brought before the Board
14 today, but staff will endeavor to identify those answers
15 and make the Board aware of them, to the extent that
16 they are -- impact the plan of flood control, require
17 permits, or impact public safety.

18 So with that said, we'll move on.

19 Do you want to say something, Butch?

20 VICE PRESIDENT HODGKINS: Yeah, I do.

21 I think that, first of all, Mr. Archer, I believe
22 the concern you are expressing about how that levee was
23 fixed, after that failure, that you absolutely believe the
24 things you are saying. Okay?

25 But I think it's also important that you

1 understand that from my standpoint -- I won't speak for
2 other Board members -- when the Corps stands up and says,
3 "We've looked at this, and we think" -- especially John
4 Hess, who's a guy I've worked with and have a huge amount
5 of respect for, that they have addressed the issue that
6 you are making, then from my standpoint, they have
7 addressed the issue.

8 And I will also tell you that I will acknowledge
9 that engineers don't know everything. And we're
10 constantly learning. And we may find out at some point in
11 the future that we didn't know everything here. Okay?
12 That's -- that's the nature of the business.

13 But from my standpoint for right now, the issue is
14 closed. The Corps has said, "We have looked carefully at
15 it." John Hess says, "They have done it right." And you
16 can continue to -- to voice your opinions here.

17 But if you -- it would make more sense to go talk
18 to the Corps' technical people and see if they put any
19 merit in what you are saying. Okay?

20 I mean, I'm an engineer, but I'm not a geotech. I
21 don't want --

22 MR. ARCHER: I can't let it pass there. You
23 brought Mr. Hess into this again. And you say that you
24 believe everything he says. All right. Now, but you
25 can't believe it all, evidently.

1 The Corps of Engineer's Colonel Light sent me a
2 letter. And he said, in this -- on that work, on that
3 area -- right there (speaker points to overhead slide),
4 where we are talking about, our group, Mr. Hess, and
5 others have overlooked everything Three Rivers has done,
6 repairing that levee. They have overlooked it, sir.

7 Now, if they overlooked it and watched it and he
8 said, from start to finish -- it's in the letter. You
9 have it in your packet. If he was overlooking that, if
10 his group was overlooking it, Mr. Hodgkins, they then
11 would have seen that they did not do A, they did not do B.
12 And you can say there's no permit, but it's in your packet
13 that shows there is a permit.

14 Now, they did not do A, so he oversaw that. They
15 did not do B, and he oversaw that, or somebody in his
16 group did. Because it's stated by the head Corps man, the
17 district engineer, Ronald N. Light, Colonel, United
18 States, Corps of Engineers -- he did not see them not do
19 that triangle sand berm.

20 Now, I don't believe Mr. Hess. You can believe
21 Mr. Hess. But he is not somebody that I'm looking up to.
22 When they tell me, in the letter, that they have been
23 watching this whole program going on by these folks, so if
24 they saw it going on, they saw it not going on.

25 Thank you.

1 VICE PRESIDENT HODGKINS: Well, I --

2 MR. ARCHER: Okay. I will stay and argue with
3 you.

4 PRESIDENT CARTER: No. No. No.

5 MR. ARCHER: All right. Then I'll stop right
6 there.

7 PRESIDENT CARTER: I'm sorry.

8 I think staff needs to clarify this issue on the
9 permits and whether the permits exist or not.

10 Mr. Bradley, could you speak to this? If not,
11 maybe Mr. Punia?

12 GENERAL MANAGER PUNIA: I will let Steve first
13 talk on this subject.

14 CHIEF ENGINEER BRADLEY: I think -- I want some
15 time to take a look at this. There's about eight permits
16 that have been issued for the work, up on Three Rivers.
17 This has been a very complex project with pieces and
18 various permits.

19 I did want to clarify one thing: The seepage berm
20 adjacent to the slurry wall, on Reach E, that we talked
21 about earlier, was part of the permit. It did require a
22 variance to work during -- not during the flood season,
23 that we issued later. I believe they had some -- it was
24 planned to be constructed during the non-flood season.
25 They had some acquisition issues. When those were

1 resolved, I believe the contractor proceeded forward
2 without getting a variance.

3 When we were notified, we contacted them, worked
4 out the issues, eventually the issue of the variance. I
5 was a little perturbed and had let them know it at the
6 time. But we have, as usual, worked these things out.

7 So it was completed under the issuance of a
8 variance, to work during non-flood season. January which,
9 you know, is a very dry -- well, the driest January on
10 record. The weather was good, and the work was not
11 substantial.

12 PRESIDENT CARTER: Mr. Punia?

13 MR. ARCHER: There are three permits.

14 PRESIDENT CARTER: Mr. Punia?

15 GENERAL MANAGER PUNIA: I just want to add, what
16 Steve is saying, on the reach where that slope issue is,
17 that work gets -- the applicant has to provide more
18 information on that. And then their plan is to address it
19 when they're including the levee raise. That work hasn't
20 been authorized to proceed in that reach.

21 PRESIDENT CARTER: So an application has been
22 received, but work has not been authorized? So I think
23 there's some confusion here. And the staff will address
24 it.

25 With that, we are going to move on.

1 There are no items on -- under the consent
2 calendar, Item 9.

3 We will move on to requested actions, Item 10,
4 project studies -- project or study agreements, Yuba River
5 Basin Project.

6 Mr. Kerr?

7 MR. KERR: Good morning, President Carter, General
8 Manager Punia, Members of the Board.

9 I've got some materials here that I would like to
10 see if Lorraine would distribute them to you.

11 Item 10 is a letter for your consideration to the
12 Corps, to request that they review work being performed by
13 the local entities to see if it is eligible for credit
14 under the Yuba Basin Project, which is currently a Rec
15 Board and Corps sponsored project.

16 We feel that that work is most likely consistent
17 with the future project. And I would just like to give
18 you a status update of where we are at with this letter.
19 And then Mr. Ric Reinhardt, from the local sponsor, is
20 here to discuss more specifically what the work will
21 entail.

22 We received a request -- the Rec Board received
23 this request last month, to forward their request to the
24 Corps. We began preparing the letter immediately to
25 transmit their request, and we feel that there is indeed

1 an urgency to preserve the schedule to keep this moving as
2 quickly as possible.

3 The Corps needs to respond with their assessment
4 of this request before the local entity can actually begin
5 its construction. Sometimes the review will take many
6 months. So we want to get this request in as soon as
7 possible. So me and my staff have given this our highest
8 priority to move this forward.

9 In the process of preparing this letter, we asked
10 the Corps to review it for sufficiency, to see that it met
11 all of its needs. We don't want to have them to kick it
12 back to us and delay this effort whatsoever.

13 They came to us Tuesday, stating that they would
14 really like to see an attachment that discusses, in
15 detail, specifically what the local entity would like to
16 construct, their methodologies, and different reaches that
17 will have the specific measures to take place. That put
18 quite a strain on us. We have been scrambling and working
19 with the local sponsor. And Jay Punia has also worked
20 with us to assemble the materials we needed for your
21 packet. We just received the attachment this morning, in
22 the Rec Board meeting, that the local sponsor has
23 prepared, to describe in detail the works they hope to
24 accomplish.

25 Our staff hasn't had the ability to review that in

1 detail yet. We really wanted to bring you a complete
2 package, but at this time the package is still a draft.

3 If there's no questions for me, I would like to
4 give the opportunity to Mr. Reinhardt to speak more
5 specifically to the construction.

6 (Thereupon an overhead presentation was
7 presented as follows.)

8 MR. REINHARDT: Thank you, President Carter,
9 General Manager, Members of the Board. My name is Ric
10 Reinhardt. I'm here on behalf of Yuba County Water Agency
11 today, who is the local sponsor to the Reclamation Board
12 for the federal project, Yuba River Basin project.

13 What we are here today to talk about is continuing
14 to secure credit for the work that the state of California
15 and the Three Rivers are investing in RD 784 and making
16 sure that those expenditures are ultimately creditable
17 towards the federal project.

18 To date, we've secured 86 million in Section 104
19 credit for work that Three Rivers has done under Phases 1,
20 2, and 3; and the segment we constructed this last year,
21 on Phase 4 of Yuba.

22 This credit request is for the Segment 1 and 3
23 work on Feather River, that we want to proceed to
24 construction with it, during this next construction
25 season.

1 The Segments 1 and 3 are located just up and
2 downstream of the setback levee. The setback levee itself
3 is Segment 2, and that will be made as part of a future
4 104 request.

5 --o0o--

6 MR. REINHARDT: The total request is
7 \$32.7 million, which, if approved, would raise the total
8 limit of our available credit to \$118.7 million.

9 That's the conclusion of my presentation.

10 Do you have any questions?

11 PRESIDENT CARTER: Mr. Punia?

12 GENERAL MANAGER PUNIA: Jay Punia, general manager
13 of Reclamation Board.

14 We were hoping to have this package ready where
15 you can approve the letter, but with the comments
16 receiving from the Corps, this package got delayed.

17 It's in the best interest of the state and the
18 Yuba County to proceed with this letter so that it's not
19 delayed. If the letter is delayed, there's a chance that
20 the construction may start and we may miss the opportunity
21 to get the Section 104 credit.

22 So I'm requesting the Board, if they are willing
23 to give me the delegation, to the general manager, so that
24 we can send this letter and not miss the opportunity to
25 seek Section 104 credit.

1 So the package of -- the draft package is in front
2 of you. If you will authorize, then I will sign on behalf
3 of the Board and send this package to the U.S. Army Corps
4 of Engineers next week.

5 LEGAL COUNSEL MORGAN: Just to clarify, subject
6 to -- the letter would be substantially in compliance with
7 what you see before you, but it would be modified as
8 necessary, based on consultation with the Corps of
9 Engineers.

10 GENERAL MANAGER PUNIA: That's correct.

11 PRESIDENT CARTER: And can we expect the Corps to
12 have the -- their requirements and the letter complete by
13 next week?

14 GENERAL MANAGER PUNIA: That's the goal here. I
15 think we got all the pieces together. I'm confident that
16 we will have all the pieces by the next week, so that we
17 can send the letter to the Corps.

18 Tim, correct me if I'm wrong.

19 MR. KERR: I think you are correct, Jay.

20 SECRETARY DOHERTY: Would it be possible for us to
21 read this during our noon hour?

22 GENERAL MANAGER PUNIA: Yes, definitely.

23 SECRETARY DOHERTY: Good. Thank you.

24 GENERAL MANAGER PUNIA: And on a similar path, the
25 letter that you approved at the last meeting, from the

1 Sacramento Area Flood Control Agency, requesting a similar
2 request for their Section 104 credit.

3 SECRETARY DOHERTY: Right.

4 PRESIDENT CARTER: So does the Board have any
5 problem with tabling this until after our lunch recess, to
6 give the Board a chance to review the letter contents?

7 Okay. So we will go ahead and do that.

8 MR. KERR: Thank you very much.

9 PRESIDENT CARTER: Thank you.

10 Okay. Next on the agenda, there are no items
11 under Property Management or Enforcement, so we are on to
12 applications.

13 Item No. 13, Application No. 17659-A, River
14 partners in Glenn County.

15 Mr. Fua?

16 SUPERVISING ENGINEER FUA: For the record, my name
17 is Dan Fua, supervising engineer for the Reclamation
18 Board.

19 President Carter and members of the Board, good
20 morning.

21 First, I would like to thank you, Lady Bug, for
22 bringing today the elderberry jam. It was good. It was
23 the first time I have tasted it.

24 SECRETARY DOHERTY: Jelly.

25 SUPERVISING ENGINEER FUA: Jelly. Okay.

1 I have a little PowerPoint presentation for this
2 item.

3 (Thereupon an overhead presentation was
4 presented as follows.)

5 SUPERVISING ENGINEER FUA: Okay. I would like to
6 begin my presentation by giving you a brief overview to
7 refresh your memory of the River Partners application.

8 This application was first brought to you for
9 consideration last August 20th, 2006. In that meeting,
10 several issues of concerns, and you tabled the application
11 for future consideration.

12 You had instructed the applicant to come back
13 before you, when additional information becomes available,
14 to address the issues and concerns.

15 For the last four months, your staff have worked
16 with Levee District 3 and the applicant and discussed the
17 issues and concerns to try to resolve those.

18 River Partners have also provided staff with
19 additional information in an effort to address our
20 concerns and some of the Levee District 3.

21 --o0o--

22 SUPERVISING ENGINEER FUA: Again, this is to
23 refresh your memory. This is an aerial map of the project
24 site. The subject of the application is actually just the
25 136 acres. And the project applicant is proposing to

1 replace an existing walnut orchard and plant it with mixed
2 riparian vegetation including elderberry shrubs.

3 As you recall, the issues that were discussed and
4 went unresolved last -- October Board meeting are the
5 following:

6 We are concerned about introducing elderberry into
7 the site because -- for the reason that it might impact
8 our ability, a limited exclusive ability, to adequately
9 maintain our flood control system. And concerns were also
10 raised that the elderberry might propagate and migrate
11 outside the project site, again, bringing the same problem
12 that it caused to the levees outside this project area.

13 The second concern or issue is a long-term
14 maintenance and financial plan for this project site.
15 Obviously, we want this project to be maintained so that
16 the Butte Basin flood-carrying capacity will be
17 maintained, and it will be able to protect your flood
18 control system.

19 Third issue is the hydraulic impact. There were
20 some questions about the hydraulic impact and especially
21 the cumulative impacts about the project.

22 And the last issue of concern is the loss of tax
23 revenue, when this property is transferred to a state
24 agency or federal agency.

25 --o0o--

1 SUPERVISING ENGINEER FUA: Okay. So as I've said,
2 the applicant has submitted a number of supporting
3 documents to try to address the issues of concerns that
4 were raised.

5 The U.S. Fish and Wildlife Services submitted a
6 letter clarifying the Safe Harbor Agreement. The
7 Department of Fish and Game has submitted a letter
8 assuring us that, you know, if the property is transferred
9 to them, they would be willing to provide the long-term
10 maintenance.

11 The applicant also submitted updated hydraulics of
12 the existing hydraulic model on the Sacramento River and
13 the Butte Basin.

14 And lastly, staff -- this is mostly Scott and the
15 legal counsel, have prepared some special conditions in
16 order to address the concerns and issues.

17 Let me go back to the U.S. Fish and Wildlife
18 service letter. The letter, which I hope is in your
19 package, actually clarified the incident uptake
20 authorization granted by the Safe Harbor Agreement, and
21 especially the service clarified that. Levee District 3
22 or any other maintaining agency can do their flood control
23 management activities without having to comply with
24 regulatory restriction.

25 In other words, LD3 or the Department of Water

1 Resources can conduct the routine maintenance on the
2 levees or along the easements of the levees, say, for
3 example, working around, working here, or even to the
4 extent of removing the elderberry without the regulatory
5 restriction.

6 And you know, there is a limit. If in fact, we
7 need to remove the elderberry plants in this site, just
8 this site, which they call the inroad property, the limit
9 is that -- you know, it shall be up to the existing
10 baseline condition, which, on this site, is one elderberry
11 plant.

12 The Department of Fish and Game letter, they sent
13 a letter and they expressed their support of the project
14 and also expressed their willingness to maintain the site
15 if it is transferred to them. They told us, the
16 Department of Fish and Game has a budget and has the
17 resources to do long-term maintenance.

18 In fact, they cited their current management of
19 the Upper Butte Basin Wildlife Area. They are responsible
20 for maintaining that wildlife area.

21 The third supported document is the updated
22 hydraulic analysis. And what you see here --

23 --o0o--

24 SUPERVISING ENGINEER FUA: -- is the velocity
25 profile that was generated by the updated hydraulic model.

1 This is the project site over here. And the color
2 of this hydraulic profile denotes the velocity of the
3 water flowing through the Butte Basin and the Sacramento
4 River when it follows up the design or capacities
5 introduced.

6 Like in Butte Basin, this model used 111 cubic
7 feet per second. And on the left side, you can see what
8 velocity corresponds to the color. Like in the project
9 site, it's purple. And if you look at here, that is
10 equivalent to about .5 feet per second velocity, at
11 111,000 cubic feet per second. Okay. That translates --
12 see, if the flow is restricted here, this project site, so
13 that the velocity approaches zero, that translates to
14 about .05 an inch of water surface elevation, you know,
15 back water flows.

16 The staff believes that, you know, that increase
17 in the water surface elevation will not redirect the flow
18 back into the Sacramento floodplain. So in other words,
19 even if that flow is restricted to a point where it
20 approaches, the velocity approaches zero, the water will
21 be contained within the Butte Basin.

22 So in other words, the bottom line is, staff
23 doesn't believe that there is a hydraulic impact for this
24 project site if it's approved.

25 Concerns were raised about cumulative impacts of

1 similar projects that may be built within the Butte Basin.
2 As you can see, there is not much area within the Butte
3 Basin where the velocity is similar to the project site.
4 Most of the area has, you know, high velocity. And staff
5 would not recommend that the Board would allow restoration
6 projects of these high velocity areas.

7 So if they build, you know, restoration projects
8 within the low velocity areas, there probably would be
9 cumulative impacts because of the real low velocity and
10 the rise in water surface elevation.

11 --o0o--

12 SUPERVISING ENGINEER FUA: As I said, staff also
13 have developed some special permit conditions in order to
14 address the concerns about elderberry, about the long-term
15 financial plan, about the hydraulic impacts, and about the
16 loss of tax revenue.

17 And one of the special conditions that we had
18 developed in order to address the long-term maintenance
19 and the elderberry planting is to require River Partners
20 to enter into an agreement of the Board to ensure that
21 continued maintenance of the project site is done.

22 The second condition is to require River Partners
23 to restore the site prior to the transfer of the property
24 unless -- unless the organization of the individual that
25 will take over the site will agree to enter into a similar

1 agreement with the Board.

2 Also, we developed a condition, a special
3 condition that River Partners will restore the site a year
4 before the Safe Harbor Agreement expire. And it's 25-year
5 term. Unless first, the service would have another
6 biological opinion where they would authorize the intake
7 authorization or, of course, unless, the Valley Elderberry
8 Longhorn Beetle....

9 And the last special condition that we developed
10 is to address the funding -- the loss of funding where the
11 property is transferred to a government agency. And that
12 is -- you know, we require River Partners to contribute a
13 dollar amount that's equivalent to the tax loss when and
14 if the property is transferred to a government agency.

15 --o0o--

16 SUPERVISING ENGINEER FUA: So with that, those
17 additional information that we received and after review
18 of those additional information, the staff recommendation
19 would be to approve the draft permit.

20 --o0o--

21 SUPERVISING ENGINEER FUA: And I will conclude my
22 presentation with a general vicinity map of the project
23 area. The red, that's the project.

24 But anyway, that's the general vicinity map of the
25 project, with the Butte Basin and the Sacramento River.

1 That concludes my presentation. And I would be
2 ready to answer any questions you may have.

3 PRESIDENT CARTER: Are there any questions for
4 Mr. Fua?

5 SECRETARY DOHERTY: Mr. Fua, in the previous study
6 done in -- I believe it was in the '80s, the environmental
7 impact report for the Butte Basin overflow area, they
8 stated that care must be taken to not unduly burden the
9 Butte Basin.

10 Now, there's already 96 acres already planted to
11 elderberries, and to native glasses and whatnot, just
12 adjacent to this 136 acres.

13 Now, is that going to slow down the flow of the
14 water, although minimally, so that the water is going to
15 remain in this Butte Basin area longer than it used to?

16 --o0o--

17 SUPERVISING ENGINEER FUA: Well, according to the
18 model, the project area is right here, and that includes
19 the 96-acre parcel, and that includes all of River
20 Partners' property. And as you can see, the velocity in
21 this area is really slow. And as I've said, that
22 translate into a -- you know, water surface elevation of
23 about .05 of an inch.

24 And it's staff's opinion that it would not really
25 impact the hydraulic capacity of the Butte Basin Channel

1 if the development is restricted in a low velocity area.
2 Of course this is a model. And the model only is accurate
3 on the input that it's using. So we got to be very
4 careful in using the model as an absolute fact. It isn't.

5 MEMBER RIE: Question: How many elderberries are
6 they planting or proposing to plant?

7 SUPERVISING ENGINEER FUA: 1,500 plants.

8 MEMBER RIE: I'm just taking a look at the CEQA
9 document, and it says, "a minor alteration of land." It
10 just seems to me like 1500 plants is not that minor.

11 SUPERVISING ENGINEER FUA: Well, maybe it is
12 minor -- I don't know. It's relative. We're talking
13 136 acres or 259 total acres out of a thousand acres in
14 the basin. And maybe that's how they arrive at that
15 conclusion.

16 MEMBER RIE: 259 acres out of a thousand acres?

17 SUPERVISING ENGINEER FUA: No. Several thousands
18 of acres in the Butte Basin. 259 includes the 96 and 27.

19 MEMBER RIE: So 1500 plants over 259 acres?

20 SUPERVISING ENGINEER FUA: No, 136.

21 MEMBER RIE: 136?

22 SUPERVISING ENGINEER FUA: There is no elderberry
23 plant allowed in the 96.

24 MEMBER RIE: Okay. Thank you.

25 PRESIDENT CARTER: Mr. Fua, can you tell us where

1 the existing elderberry bush is? Can you show us on the
2 map?

3 --o0o--

4 SUPERVISING ENGINEER FUA: Right on the 127 acres
5 parcel. Correct me if I'm wrong, staff of River Partners,
6 but it's right here, near the levee, actually.

7 PRESIDENT CARTER: So it's in the 27 acres. Is
8 that part of the project area? I thought the 136 was the
9 project area.

10 SUPERVISING ENGINEER FUA: Well, the Safe Harbor
11 Agreement covers the entire 259 acres. So in other words,
12 if we need to remove all the elderberries, 136 acres
13 planted, we can do it, or they can do it.

14 PRESIDENT CARTER: Is the existing elderberry bush
15 within the maintenance area of the levee or the flood
16 control structures?

17 SUPERVISING ENGINEER FUA: I would like to have
18 River Partners respond to that because you guys did the
19 survey on that. Would you like to -- what exactly that is
20 it close to, to the levee?

21 MR. EFSEAFF: Hello. For the record, my name is
22 Dan Efseaff. I'm a restoration ecologist with River
23 Partners in Chico, California.

24 The existing baseline elderberry, approximately,
25 in this area, is right here. And it is on the river side

1 of the levee.

2 PRESIDENT CARTER: Is it within the maintenance
3 easement of the levee, right now?

4 MR. EFSEAFF: I don't believe so.

5 Yeah, my understanding, that easement goes 10 feet
6 from the toe of the levee, and I think it's beyond that
7 area.

8 In either case, the Safe Harbor Agreement protects
9 anything on the entire property.

10 So the way the baseline works is, in exchange for
11 that one elderberry out there, it could be at the end of
12 the term, replaced anywhere at the site. And the 1500
13 that are planted could be taken out of baseline.

14 The -- your amount is somewhat arbitrary because
15 it's just the term of the agreement. And it can be
16 reauthorized.

17 I want to point out that Shannon Holbrook and Rick
18 Kuyper from the U.S. Fish and Wildlife are here. And they
19 could answer -- a lot more authority, any questions you
20 might have on the Safe Harbor specifically.

21 PRESIDENT CARTER: Any other questions for staff?

22 SECRETARY DOHERTY: Not right now.

23 PRESIDENT CARTER: Okay. Then we will open it up.

24 Mr. Efseaff, did you want to address the Board? I
25 have a card for you.

1 MR. EFSEAFF: Yes.

2 PRESIDENT CARTER: While we're waiting, I would
3 like to remind you, Mr. Efseaff, to limit your comments to
4 five minutes, please.

5 MR. EFSEAFF: Thank you, President Carter.

6 I wanted to just go over a couple of comments that
7 came up the last meeting, that I wanted to address and
8 some of the issues that came up and wanted to handle
9 those. The first thing -- and I will go through this
10 pretty briefly, unless there's questions.

11 (Thereupon an overhead presentation was
12 presented as follows.)

13 MR. EFSEAFF: The history on the site, this
14 project did come before the Glenn County Board of
15 Supervisors in 2000, and they adopted a resolution. So
16 they were neutral on the land acquisition.

17 I know that was one of the questions that came up.
18 And we did provide that. One of the materials that we did
19 submit as part of the site was --

20 --o0o--

21 MR. EFSEAFF: -- a long-term management plan. It
22 wasn't included in the packet. So that is available.

23 Mr. Fua? Mr. Fua? We had submitted a long-term
24 management plan for the property. And at least the copy
25 that we received wasn't in there. Was that -- do you have

1 that available for board to review?

2 SUPERVISING ENGINEER FUA: It's a draft. It's in
3 there, yeah.

4 MR. EFSEAFF: Yeah.

5 Anyway, we have that available.

6 A couple of pictures. There were some questions
7 about kind of context, I think. And this might help a
8 little bit. Property is approximately right here. They
9 started -- the project levee is here. The basin in this
10 area, you know, there are several overflows that go across
11 the channel here. And the ore folks in here can speak
12 with it. But it gives you a little picture on -- as to
13 where the property location is, kind of context of it.

14 --o0o--

15 MR. EFSEAFF: There are a couple of things -- kind
16 of to know the site a little bit better, I wanted to point
17 out a couple of photos. There were a series of photos
18 that were brought up last time, that were not of our
19 levee. This is actually our levee right now --

20 --o0o--

21 MR. EFSEAFF: -- on site, just a few days ago.

22 So it's relatively clean. And my understanding
23 is, there's no issues with current management, current
24 conditions on our levee.

25 --o0o--

1 MR. EFSEAFF: I do want to point as well -- there
2 was a correction I wanted to make on Mr. Fua's
3 presentation. And that's on the east field, this area
4 right in here. There are 11 DWR elderberry that were put
5 in place under a special condition permit that were just
6 put in last year, in July, as part of the emergency levee
7 repairs.

8 Our planting out here, the design -- let me give
9 you a quick show of it.

10 --o0o--

11 MR. EFSEAFF: Oops. Wrong place.

12 --o0o--

13 MR. EFSEAFF: Kind of a view of the site --
14 technical difficulties.

15 This is looking at the site from the southeast
16 corner of the property. This is from one of our photo
17 points. We have specific places on site where we actually
18 return to, over time. This is looking north from that
19 point.

20 This is taken from the same location. We had a
21 much lower density process area of the site and has plant
22 density with a lot of deer grass and other kind of
23 herbaceous low plant material. The idea behind it was to
24 allow conveyance, water in this area goes essentially
25 north-south. We're facing north in this picture.

1 --o0o--

2 MR. EFSEAFF: On the north end of that is a big
3 grassland area. You are looking at a large, significant
4 grassland planted in here. This was also orchard prior to
5 2002. It's now approximately 50 or 60 acres of grassland,
6 open area on that. That's pretty evident when you look at
7 the -- compare this map with the previous map. The tree
8 rows are east-west orientation. No previous permit or
9 hydrology done with it. This is oriented in a north-south
10 direction with flood flows and adjusted for the model
11 part. You see the open area here, on the west.

12 --o0o--

13 MR. EFSEAFF: It's the reason why I'm bringing up
14 that old picture on there, on here, to the east, is that
15 this low flow area in here is where we are proposing the
16 latest restoration. And it has a lot of similarities to
17 the other side.

18 --o0o--

19 MR. EFSEAFF: There were some questions, I think,
20 about the -- what does it look like over time. And we
21 have some good indication on this site of what that might
22 be, just by looking at three-year-old restoration next
23 door. But also there are some other things going on in
24 the area.

25 To the north, we are surrounded essentially by

1 conservation on -- on three sides. There's

2 partially-owned conservation easement to the north.

3 To the east here is a duck club. And then to the

4 far west is a little corner that touches the Fish and

5 Wildlife service property. To the south, we have private

6 landowners.

7 When we did the property acquisition, we got

8 letters of support from all adjoining landowners, not just

9 Fish and wildlife, but all the three -- on all three

10 sides. And we have very amiable relations with them.

11 --o0o--

12 MR. EFSEAFF: When we look to the north, this is

13 an open field that's been open for at least 30 years.

14 There's not a whole lot of recruitment there. And I know

15 that was one of the questions that came up. Llano Seco

16 now has 12,000 acres in ownership, and there aren't any

17 elderberries there. There's not any elderberry on our

18 fence line. So that might address some of the concerns

19 about migration on to other areas.

20 --o0o--

21 MR. EFSEAFF: Let me go back for a second.

22 --o0o--

23 PRESIDENT CARTER: If you could try and wrap it,

24 please.

25 MR. EFSEAFF: I will -- just really quickly.

1 The Hidden Mallard Duck Club did a planting about
2 20 years ago. This is their planting area. There's not a
3 whole lot of improvements past their tree rows. And
4 that's quite evident from their photographs.

5 And I guess it's kind of the final bit of
6 information, would be the riparian area to the far north.

7 This has been untouched, and this is far better
8 soil than what we have on site. It's a relatively open
9 area in here, with large trees, an evergreen understory
10 with sedge on it that keeps a lot of the things coming in.

11 Our soil on site is going to be far -- this is
12 right here. The soil type changes markedly across our
13 site here.

14 --o0o--

15 MR. EFSEAFF: Do you have any questions?

16 PRESIDENT CARTER: Any questions for Mr. Efseaff?

17 Okay. Thank you.

18 Mr. Ellis?

19 MR. ELLIS: Thank you, President Carter and
20 Manager Punia and Members of the Board.

21 I'm very concerned about our total flood control
22 system. I think it has to be handled as a total unit. It
23 was designed that way, to operate as one unit so that each
24 part depends on the proper functioning of the other parts,
25 so that we all benefit. That is the system-like benefit

1 of public safety. I don't think we need any more
2 elderberry bushes in our floodways. We attract the
3 endangered species, the elderberry beetle, and if they
4 come -- are found on their property, then that triggers a
5 whole lot of other restrictions on the maintenance
6 agencies.

7 I think it would very adversely affect our ability
8 to clean up and maintain those channels. I think despite
9 the last presentation, I think the propagation, offsite,
10 is a potential that is real.

11 I think we can't forget the cumulative effects of
12 these projects; a little bit here, a little bit there, and
13 pretty soon, you have got a significant effect. I think
14 you must keep that in mind.

15 And I hate to say this, but I'm concerned about
16 the enforcement of these very special provisions in your
17 permit. We have flowage easements that date back to 1919
18 and on forward, to the '40s, that I'm aware of. There are
19 very significant restrictions on what can happen within
20 our flood control system. And these easements have not
21 been enforced. And enumerate several areas in our area --
22 and incidentally, I forgot; I didn't identify myself. I'm
23 Tom Ellis. I'm from Colusa Basin and President of West
24 Side Levee District.

25 I can show you areas within our area that have

1 been adversely affected by the fact that these flowage
2 easements have not been enforced. So I have -- I'm a
3 little suspect on the enforcement of these very special
4 provisions within these permits.

5 This Board changes from time to time. And I think
6 some board might be more inclined to enforce them than
7 other boards. I hate to tell you that. But my mind is
8 clouded on your enforcement abilities.

9 And the third thing -- the last thing that I want
10 to point out is, I think we have to dispel the idea that
11 we have excess capacity north of Sacramento, in our flood
12 control channels. We do not. We've had trouble in 1997,
13 you know, the break in the marina area. But we really
14 don't have excess capacity up there. And we've got a lot
15 of vegetative growth and sediment buildup of sediment in
16 those channels. So if we had any excess capacity, it's
17 been taken up.

18 And so I would encourage you not to allow
19 elderberry bushes to be planted in this area.

20 Thank you.

21 PRESIDENT CARTER: Any questions for Mr. Ellis?

22 Thank you.

23 MR. EFSEAFF: Mr. Carter? I just -- just one
24 clarification. I neglected to mention, I have submitted a
25 letter from Dr. Theresa Talley, addressing the potential

1 spread and growth of elderberry. And that's in the
2 material that we just handed you.

3 PRESIDENT CARTER: Thank you. Mr. Spannagel?

4 MR. SPANNAGEL: Good morning. My name is Mark
5 Spannagel with Assemblyman LaMalfa's office. Thank you
6 for letting me be here today.

7 We have just come in association with the levee
8 districts to address our concerns about this project. You
9 have put forward a number of conditions which we
10 appreciate. It's good on one of those things. Some of
11 the long-term impacts, though, regarding funding is still
12 up in the air. There's issues about what happens when the
13 state or the feds take over.

14 This property -- will the levee district continue
15 to have funds for maintenance? Will the county still have
16 tax revenue coming in? Those are issues that really need
17 to be looked hard at.

18 Also, elderberries are a serious issue there, as
19 Mr. Ellis has spoke to.

20 The SRCAF still has not developed a good neighbor
21 policy. The neighboring farms could be impacted and
22 they -- there is no policy currently to protect them.
23 Something that we would not look favorably on, continuing
24 to put more elderberries, which put more farmers and other
25 impacts on the neighbors, put them at risk. So -- and

1 this Safe Harbor program, there's a lot of issues with
2 neighbors with that, not wanting to enter into that.

3 So there's still a lot of issues we have with
4 this. We hope you will continue to work with the levee
5 districts. You have been very positive in that aspect,
6 and I look forward to working with you in the future on
7 this.

8 PRESIDENT CARTER: Thank you.

9 Any questions for Mr. Spannagel?

10 Thank you. Mr. Larrabee?

11 MR. LARABEE: Good morning. Thanks for having me
12 again. My name is Eric Larrabee. I'm a trustee of Levee
13 District 3.

14 And Mr. Hodgkins, it is, I appreciate your
15 comments earlier about red tape and bureaucracy. I don't
16 appreciate -- I don't particularly enjoy coming down here
17 and having to go through all this. But I think it's
18 necessary.

19 Looking back in the rearview mirror is no good;
20 this is where we are today. We need to go forward here.
21 And you people are in charge of this levee. And I really
22 want you to be responsible, as we feel you are, and make
23 some decisions, the right decisions.

24 I have specific issues with this permit. All in
25 all, I just received the staff report last night, and I

1 have briefly looked through it. And I'm not an engineer
2 or biologist. But I've lived out there my whole life.
3 And I have been involved with enough stakeholder boards,
4 advisory Board, scientific Boards, to do the work that I
5 do, in farming, both on a federal and state level, to know
6 that some of this stuff in here casts a little bit of a
7 suspect to me, as far as the information goes.

8 And I don't want to pick this apart but, you know,
9 for example, the income tax study, they assumed an
10 8 percent discount rate. I think that's assuming they're
11 given the money to invest. I haven't been on a public
12 board with public money ever. If that's anywhere close to
13 that, then you certainly would be risking -- and not be
14 doing yourself -- not be acting in good faith to -- to the
15 people you respect, to have that. It's more like four.

16 And if you read the numbers there, that whole
17 timeline it's -- I think there's a credibility thing
18 there.

19 Also, regarding the flood map, I mean, I can tell
20 you, from living out there, and I have grown up there my
21 whole life. I live out there. I'm a landowner out there.
22 When the water enters the Butte Basin overflow area, the
23 three Bs, and it's on the Web site. The historical 57
24 design fill is 114.5 foot of elevation.

25 I have driven up, just this last winter -- not

1 this winter, the year before, we haven't had much high
2 water this year, yet. And at 110 and a half, on your
3 realtime markers, on your DWR Web site, I've driven up and
4 watched the water fill up the sloughs over the old Nichols
5 property and begin to enter the Butte Basin overflow area.

6 And I don't know if any of that's being
7 incorporated in these new models. That's four foot of
8 elevation of additional water that comes sooner, that
9 lasts longer, and fills this whole area up like a bathtub.

10 There's only about 80-foot elevation of this
11 area -- mean, sea level. Sacramento is about 80 miles
12 south as the crow flies. It's very flat. The water
13 spreads out. Not so much velocity. But it just gets
14 deeper and deeper and deeper.

15 And in this project, as indicated, there would be
16 some impact, although negligible. But it is impact. And
17 I think anybody, as anyone else, should be responsible for
18 mitigating those impacts. It's one big system. You can't
19 do something up here and have a blockage in your drain
20 down here. This basin needs to be able to empty out.
21 It's a cumulative impact.

22 Specifically, my concerns are the elderberry Safe
23 Harbor Agreement. I first learned of this, this summer.
24 Mr. Efseaff called me when they were going to ask me
25 for -- to enter on this encroachment permit. And I

1 thought about it. The one thing that strikes me is that
2 they've had this agreement with the U.S. Fish and
3 Wildlife, but they never stopped to talk -- at least I
4 haven't heard them -- anybody, of the neighbors, who would
5 actually sign this thing.

6 I mean, you have a contract between a landowner
7 and an agency, and they will agree to do what they want to
8 do. But if it spills over onto my private property, I'm
9 required to sign the same contract, allow access, baseline
10 conditions, all these issues, when I didn't have anything
11 to do with it in the first place. And that is troubling
12 to me.

13 Also, as an example of elderberries -- I mean, it
14 was mentioned earlier -- you stop emergency levee control
15 work here, last summer, to remove 11 elderberry plants.
16 And I don't know where all these letters and people were
17 talking then, how much time and effort went into that, to
18 relocate 11 elderberry plants when you had a state mandate
19 for the governor to do something about this emergency
20 situation.

21 We have been notified recently, through the Board,
22 that because of our maintenance issues on Levee District
23 3, and there are reports generated every spring and fall
24 for the inspections, from the Corps of Engineers, that
25 unless we improve, we will be removed from this list of

1 this PL 84-99 funding, which is essentially money, federal
2 money, that an agency can apply for, if you have a high
3 water event, high water damage, and you get into these
4 very expensive fixes that we could never afford.

5 Now, because of the condition of the levee and the
6 history of not maintaining it properly, we're -- we may be
7 in jeopardy of losing that ability for that funding.

8 They sent with it the reports. And I have all
9 this. I'm not going to burden you with this today. I'm
10 certain you already may have it. I'll give it to you, if
11 you don't.

12 There are pictures, and many of the pictures of
13 this areas, which they cite as issues, are the same
14 pictures that I bring down to you last time; many, if not
15 most of them. And they are all owned by the same agency,
16 Fish and Wildlife, and these other areas.

17 They show -- one picture has elderberries in it.
18 The Johnson grass is so tall, you can't even see them.
19 And those are one of the places I had last time, where we
20 drive around and don't touch, because we have been warned
21 not to burn any elderberries, because they are growing on
22 the slope of the levee.

23 I urge you, please don't approve this elderberry
24 thing, should you approve this permit. This is only going
25 to complicate things. There is more here than just levee.

1 You have the responsibility for the entire Butte Basin
2 overflow area, not just the levee for which this is in
3 proximity to.

4 And finally, the other thing is maintenance, and
5 long-term maintenance.

6 PRESIDENT CARTER: If you could try and wrap up,
7 Mr. Elderberry -- Mr.

8 MR. LARABEE: Did you call me Mr. Elderberry?

9 (Laughter.)

10 MR. LARABEE: I want to try some of that jam later
11 too.

12 Maintenance requires money. And as any landowner
13 will know, you have maintenance, you have ongoing
14 maintenance, and if you have deferred maintenance, those
15 things tend to add up and be very expensive over time.

16 You have a condition that staff has put in here,
17 referencing some money left behind, on account for LD3. I
18 think that's great. Mr. Hodgkins, you said -- you were on
19 the right track last time, as far as I was concerned,
20 about leaving some money behind. But there's one levee on
21 our side. There's also a levee on the other side. And
22 any high water is going to impact more than just this
23 Levee District 3 in addition to the water that gets out
24 into the overflow area.

25 I think that pile of money should be larger. I

1 think the people who inherit this property should continue
2 to pay the local taxes, like anybody else around there,
3 and keep the general fund stable in the County, and keep
4 this thing going. That would be very satisfactory.

5 And nowhere, in these letters of support, from
6 Fish and Wildlife, Fish and Game, anywhere else, they are
7 all here to tell you how much they are going to cooperate.
8 But I don't see anywhere, that they agree to reimburse you
9 for any money you might have to spend to alleviate the
10 problems of these maintenance issues that they may or may
11 not cause.

12 PRESIDENT CARTER: Please wrap it up.

13 MR. LARABEE: That's what I'm here to say.

14 If you have any questions. But please, no
15 elderberries, and let's have some money, long term, to
16 maintain these projects.

17 Thank you.

18 PRESIDENT CARTER: Any questions for Mr. Larrabee?

19 MEMBER RIE: Just one quick one. Who -- is it the
20 Reclamation District 3 who's maintaining the overall flood
21 capacity of Butte Basin, or is it the individual property
22 owners who are responsible?

23 MR. LARABEE: The Basin itself? The whole area --
24 well, that's comprised of many landowners.

25 MEMBER RIE: Many landowners are responsible?

1 MR. LARABEE: Yeah. I believe your Board is
2 responsible. Anybody that comes to build anything out
3 there is required to come through here for a permit, and,
4 you know, look at elevations, levees, anything that would
5 change or redirect flows.

6 MEMBER RIE: Are you concerned that River Partners
7 will not live up to their maintenance obligations in their
8 particular area, with the elderberries?

9 MR. LARABEE: I am concerned, long term, it will
10 look a bunch like these other properties. I don't think
11 enough time passes, in the short term, to do that. I
12 would like to have that authority now, so that when this
13 thing passes, eventually, that we at least have some --
14 some ability to -- to maintain these properties.

15 Owning -- the orchard now is nothing but bare
16 dirt, and it doesn't matter what you do in three years.
17 It would probably not be much of an obstruction. But
18 longer term, I believe it could be. And I think there
19 should be some responsibility that goes along with that.

20 MEMBER RIE: Are there any flowage easements now,
21 over the property, for the benefit of the Reclamation
22 District?

23 MR. LARABEE: Not that I'm aware of, no.

24 MEMBER RIE: Is that something you would like to
25 see happen?

1 MR. LARRABEE: As a landowner out there, at this
2 point, we have none. And I'd be afraid to -- you know, I
3 don't think I would want them now, because that would make
4 me take even more water. I wouldn't want to openly say
5 yeah, I will take all the water.

6 MEMBER RIE: Okay. Thank you.

7 PRESIDENT CARTER: Any other questions for
8 Mr. Larrabee?

9 Mr. Bradley?

10 CHIEF ENGINEER BRADLEY: Yeah. A couple of issues
11 to address.

12 Ms. Rie just asked if there are flowage easements
13 in the Butte Basin. In general, no, the Rec Board does
14 own some property there, especially up at the overflow
15 area. We own about 600 acres. We had to buy at one time.

16 That was part of the issue with Item 16, that was
17 withdrawn. That is Rec Board fee-owned property. The
18 rest of the Butte Basin is privately owned. It's a
19 natural overflow area, that is always overflowed. The
20 people that live there long term understand that. It's
21 becoming -- there are other people moving in that do not
22 understand that. But in general, we don't have any
23 flowage easements there.

24 MEMBER RIE: Is the entire basin a designated
25 floodway?

1 CHIEF ENGINEER BRADLEY: It is not a designated
2 floodway, but it is part of the adopted plan of flood
3 control.

4 It was part of the plan as originally envisioned.
5 If you take it out, the system would not work at all.
6 It's about 200,000 acres. You probably store a
7 million-plus acre feet of water in there. It all drains
8 out at the lower end very slowly, so it's kind of a surge.
9 But it takes a big chunk of water and releases it for
10 later, to reduce the flows of the river basin.

11 The way the system is always naturally operated,
12 there are essentially -- you have the Butte Basin, the
13 Sutter Basin, the Colusa Basin, the Yolo Basin, the
14 American Basin, which actually was Natomas. And RD 1001
15 and Sacramento basin. Those are the six basin originally
16 defined, if you read the "Battling the Inland Sea," and
17 the way that those areas normally overflowed historically
18 inward.

19 The river is fairly small in this area for the
20 flows we get and the huge floods pass into these wider
21 basins.

22 Then the other issue Ms. Rie had asked, that 1500
23 plants seems to be an impact. I think the way you need to
24 look at this, this was orchard land, orchards were planted
25 to retain a little bit of the 20-foot spacings. At

1 20-foot spacings, that's about a hundred plants per acre.
2 They are talking about 1500 plants over 136 acres. That's
3 about 11 plants per acre. I think that's the reason the
4 impact is considered negligible, just in the interest --
5 so that the Board understands why that statement was made.

6 Does anybody have any other questions?

7 PRESIDENT CARTER: Mr. Fua, did you have something
8 to add?

9 SUPERVISING ENGINEER FUA: Yes, Mr. President.

10 Again for the record, Dan Fua, supervising
11 engineer for the Reclamation Board.

12 After my presentation, legal counsel had advised
13 me that we cannot have in the draft permit -- we need to
14 delete Special Condition No. 39, which is about the tax
15 replacement requirement. There are some legal questions
16 of that one.

17 And Scott, would you like to add on it?

18 LEGAL COUNSEL MORGAN: Sure.

19 I've had discussions both with DWR and also with
20 Resources Agency's legal counsel about this project and
21 this permit.

22 And this has been one of the more meddlesome
23 special conditions of the permit. At the October meeting,
24 I think we heard dollar values ranging from a buck-fifty
25 to \$5. As the amount of the taxes paid on the land the

1 River Partners owns, that will ultimately make its way to
2 Levee District 3. There were some concern by the Board
3 that any loss of tax revenues to a flood maintenance
4 agency was of concern to the Board. And indeed, it is.

5 My thought was that if River Partners would
6 voluntarily accept a permit condition like this, it would
7 make that go away. We drafted it up in the most recent
8 incarnation of this draft permit to be a -- triggered upon
9 the -- the ending of any obligation to pay taxes on the
10 property. So at that point, they would -- "they" being
11 River Partners -- would pay a present dollar value amount
12 equivalent to all future payments of taxes, basically the
13 equivalent of an annuity, to pay out the tax amount of the
14 present usage of the land.

15 However, there's some concern about the ability of
16 the Board to impose such a condition as beyond the scope
17 of the Board's authority. I'm sensitive to that concern.

18 And so my recommendation would be to remove it,
19 notwithstanding the concerns of representatives of the
20 legislature. But that is a problem -- that is, in fact, a
21 problem. But of course, the legislature writes the tax
22 code. They could fix it for us. I think that's something
23 beyond the scope of this Board authority though.

24 What I would -- rather than renumber all the
25 provisions after that, simply replace it with one that's

1 usually fairly implicit in the terms of any permit, but it
2 would not hurt to make it express, to say that "No work
3 subject to this permit shall be allowed until the
4 permittee has complied with all conditions of this permit,
5 including special conditions."

6 And I didn't know if any of the representatives of
7 the Fish and Wildlife Service, who are here today, were
8 going to talk about the Safe Harbors agreement. Safe
9 Harbors, of course, are something coming under the Section
10 10 of the Endangered Species Act. And what I know of the
11 Endangered Species Act, which is not my long suit at all,
12 is really related to Section 7, which is the federal
13 conservation.

14 We don't get involved with Section 10. Pretty
15 much, hardly anyone does. I didn't know if they were
16 going to make a presentation to the Board. If not, I was
17 hoping to ask them a few questions about the operation of
18 the state department, relative to the state and LD3.

19 And I don't know if they are going to be around
20 after lunch. And I don't know how much longer the Board
21 plans to go.

22 PRESIDENT CARTER: Well, we have one more member
23 of the public that wants to talk, and then we can ask that
24 question.

25 Mr. Southam?

1 MR. SOUTHAM: Not at this time. I'm fine.

2 Thank you.

3 PRESIDENT CARTER: Okay.

4 So Mr. Morgan, do you want to -- is there somebody
5 from the Fish and Wildlife Service who --

6 MS. HOLBROOK: I have about five minutes before I
7 have to leave for another meeting.

8 PRESIDENT CARTER: Now is your time.

9 LEGAL COUNSEL MORGAN: I was wondering, maybe if
10 you could explain -- I had a couple of specific questions,
11 but I was hoping maybe you could explain generally how
12 this works, how the Safe Harbor works. But specifically,
13 we heard from the applicant at one point that the Safe
14 Harbor requires restoration to baseline at the end of the
15 agreement. I don't actually find that requirement in the
16 agreement.

17 PRESIDENT CARTER: Could you please introduce
18 yourself.

19 MS. HOLBROOK: My name is Shannon Holbrook, and
20 I'm a biologist with the Sacramento Fish and Wildlife.

21 Basically, the Safe Harbor Agreement, it allows
22 for the return to baseline at the end of the agreement.
23 It doesn't require it. So what happens is, we develop
24 these restoration, whatever the landowner wants to do that
25 will benefit the species. And they can do this for an

1 agreed upon time period. And at the end of that time
2 period, they choose to take it back to what it was
3 beforehand, then they have that ability to do that. So
4 that way, they would not be held responsible for all the
5 additional endangered species that are on their property
6 at the end of the agreement.

7 LEGAL COUNSEL MORGAN: Okay. There is no
8 requirement, though, to do it.

9 MS. HOLBROOK: There is no requirement, no.

10 LEGAL COUNSEL MORGAN: I know in the letter that
11 was sent to us, that -- I think it adequately addresses
12 concerns of the operations of LD3 on their property, to
13 maintain the deed within what would normally be a
14 regulated space of elderberries. But because of the Safe
15 Harbors, they are free to take that action.

16 And the -- the Safe Harbor Agreement talks about
17 activities, flood activities, authorized by the Department
18 of Water Resources.

19 Does that refer to activities on the River
20 Partners project area?

21 MS. HOLBROOK: Yes, it refers to activities within
22 the enrolled property, which is the area outlined in the
23 agreement.

24 LEGAL COUNSEL MORGAN: This is not the Department
25 of Water Resources, however.

1 How can that be expanded to the Reclamation Board
2 and Levee District 3 or can it?

3 MS. HOLBROOK: You mean outside the project area?

4 LEGAL COUNSEL MORGAN: No. How can that condition
5 that authorizes activities approved by the Department be
6 expanded to approve activities by the Reclamation Board?

7 MS. HOLBROOK: It's actually -- there's a
8 provision in the Safe Harbor Agreement that allows for
9 those activities to be conducted on the enrolled property.

10 LEGAL COUNSEL MORGAN: By -- things that are
11 approved by the Department of Water Resources.

12 MS. HOLBROOK: Correct.

13 LEGAL COUNSEL MORGAN: This is not the Department
14 of Water Resources. This is the State Reclamation Board.

15 MS. HOLBROOK: Well, who will be doing the flood
16 control activities on the --

17 LEGAL COUNSEL MORGAN: Well, presumably Levee
18 District 3, until they are out of business, in which case
19 then it would be the Department of Water Resources. But
20 as long as they are a going concern, it would be Levee
21 District 3.

22 MS. HOLBROOK: Well, I believe it's -- it's
23 anybody -- how does it work?

24 MR. EFSEAFF: Dan Efseaff, River Partners.

25 We left it pretty general. My understanding is

1 that the levee is Department of Water Resources, unless
2 it's designated to a subordinate or another agency.

3 And isn't the Reclamation Board within the
4 Department?

5 LEGAL COUNSEL MORGAN: No. That's a very
6 sensitive subject.

7 MR. EFSEAFF: If it's omitted -- it's an error on
8 how the thing works. It was not intended to be a little
9 loophole. But the intention is to be pretty basic and
10 upfront on any levee maintenance activity are covered.

11 And you know, if we need to amend that to say "the
12 Reclamation Board and the Department of Water Resources,"
13 "or the Department of Resources" -- Shanna can probably
14 speak to how that can be amended. But the intention
15 wasn't to create some sort of loophole that was excluding
16 the Reclamation Board.

17 LEGAL COUNSEL MORGAN: I wasn't trying to imply
18 malice. We are a Board that is often overlooked.

19 MS. HOLBROOK: The intention was to give the
20 authority to do the levee maintenance -- to cover levee
21 maintenance. The intention wasn't to restrict it to one
22 particular person to do the maintenance.

23 LEGAL COUNSEL MORGAN: And that would be of
24 concern though. However, we want to make sure that it's
25 clarified that it wasn't limited to the Department of

1 Water Resources, although I think we could work
2 cooperatively with them to get that approved.

3 But it would be -- since it is the Department's --
4 I mean, the Board's primary responsibility to oversee
5 this, to have it either expanded to include the Board or
6 just the State of California generally. And what we would
7 want to see is that that -- that the agreement be amended
8 in that way or some letter clarifying that point.

9 MS. HOLBROOK: We can take care of that.

10 MR. CARLIN: Excuse me, could I speak to this
11 briefly?

12 PRESIDENT CARTER: Go ahead.

13 MR. CARLIN: For the record, John Carlin,
14 president of River Partners.

15 Mr. Morgan is bringing up an excellent point. And
16 I think at one of the meetings we had a couple months ago,
17 our suggestion on the Safe Harbor Agreement was, it's
18 difficult for us to anticipate exactly what language we
19 would like to see in the Safe Harbor Agreement.

20 We invited Mr. Morgan to write the language, what
21 activities, what agencies, what would be acceptable and
22 appropriate from the point of view from the Rec Board and
23 Levee District 3 to have in the language.

24 I think we sent e-mails to that effect. And so we
25 didn't get a response. But we're more than happy -- the

1 point here is that we're more than happy to work with the
2 Service to try and get that language in there.

3 So if you want to provide something to us, then we
4 don't have to try and guess as to what we'll work for, for
5 the Board.

6 Thanks.

7 PRESIDENT CARTER: Thank you.

8 Anything else, Mr. Morgan?

9 LEGAL COUNSEL MORGAN: No. I would just -- I
10 would make a recommendation that that also be a condition
11 of any approval of the permit, that it be subject to
12 clarification of that point, that the Safe Harbor
13 Agreement exemption for flood control management
14 activities extends to anything authorized by not only the
15 Department of Water Resources, but also the Reclamation
16 Board.

17 I think there's also a question -- and since River
18 Partners people are right there, if they wouldn't mind
19 answering, about the ability of Levee District 3 to enter
20 onto River Partners property or the State of California or
21 the Department of the Water Resource or the Reclamation
22 Board.

23 I understand that the letter and the Safe Harbor
24 Agreement allows Levee District 3 to conduct their
25 maintenance without fear of regulatory interference.

1 But what authority would this grant them to come
2 onto your property?

3 MR. CARLIN: I'm sorry. I don't understand the
4 question. They would retain the same rights they
5 currently have.

6 LEGAL COUNSEL MORGAN: So they would not have the
7 right to come over and neither would the state have the
8 right -- except for any conditions that we propose in the
9 permit to come over.

10 But just from the Safe Harbor Agreements
11 themselves, not have the right to come onto the property
12 and maintain the vegetation for flood flow.

13 MR. EFSEAFF: There is a list, if you look at the
14 Safe Harbor Agreement, which I think is in the packet.

15 Is that right, Mr. Fua?

16 SUPERVISING ENGINEER FUA: No.

17 MR. EFSEAFF: Oh, it's not.

18 The Safe Harbor Agreement lays out current
19 activities on there. And it lays out generic, very
20 general activities for the future. The intention is to
21 have zero change and actually enhance the Levee District's
22 and the Department and the Rec Board's ability to do levee
23 maintenance out there, without any threat of litigation,
24 enforcement, on -- relate to take a --

25 LEGAL COUNSEL MORGAN: I appreciate that. But

1 what I'm asking about is the -- any maintenance that might
2 be needed --

3 MR. EFSEAFF: It's not changed.

4 LEGAL COUNSEL MORGAN: -- on -- on the property
5 where the plants are being planted, so there could be --
6 there's no authority in the Safe Harbor Agreement that
7 would authorize either the State or LD3 to clear
8 vegetation out there, that was impeding flow.

9 MR. CARLIN: Right. And we would be just like any
10 other private property owner. So if there was -- if there
11 was a necessary flood fight activity, if that's 3 or
12 4 thousand feet away from the levee, if that's a
13 legitimate flood fight activity, then it's -- no one would
14 have any objection to that happening.

15 I think what we've seen here is really thorough
16 documentation. I mean, at best we can talk about the
17 accuracy of the models, but it's the best science that we
18 have that shows this is a low roughness area. I mean, I'm
19 not really -- I guess my question back to you is: What
20 kind of maintenance would occur that's not within the
21 footprint of the levee or the designated jurisdiction of
22 the levee district that you would request --

23 LEGAL COUNSEL MORGAN: I'm not an engineer. My
24 job is to anticipate the unexpected and just work it into
25 the agreement. And --

1 MR. CARLIN: Let me just follow up on one thing.

2 To follow up on that, our intent is to transfer
3 this property to either Fish and Game or the U.S. Fish and
4 Wildlife Service.

5 And I think one of the things that is in place
6 here, and the thing that I haven't heard any discussion
7 about today in this review, is that I think there's an
8 opportunity here for DWR, the Rec Board, Fish and Game,
9 U.S. Fish and Wildlife Service, to have a collaborative
10 project, where all the interests of each representative
11 agency are being addressed.

12 And I think there's an existing set of agreements
13 in place that applied to the O'Connor Lake property, and
14 what those agreements allow for. And this property, once
15 it's transferred to Fish and Game or Fish and Wildlife,
16 would fit right under those existing series of agreements.
17 That would allow for a overall management of the whole
18 property. So the Department of Water Resource Flood
19 Maintenance folks could work with everybody and literally
20 work on any portion of the property they have an interest
21 to work on. And that agreement is in place and would be
22 applicable here.

23 The other thing, in terms of all the discussion
24 about elderberries, I recognize that not everyone in this
25 room, notwithstanding, you know, how great the jam is, is

1 a huge proponent of elderberries. But again, this is an
2 opportunity to take elderberries that are problems in
3 other areas, that are on the levee, that are in sensitive
4 flood control places, and place them here and have
5 mitigation occur here and not have long-term financial
6 exposure to the flood maintenance folks.

7 I mean, the bottom line is you can put money
8 towards flood control work instead of mitigation work by
9 approving this project.

10 VICE PRESIDENT HODGKINS: Are you suggesting that
11 it might be possible to expand this agreement so that the
12 levee maintenance activities that would be covered under
13 the Safe Harbor Agreement would go beyond just the
14 specific project area?

15 MR. CARLIN: That is correct. But we need to be
16 really clear on that. This is the -- this Safe Harbor
17 Agreement is for private property owners. So as long as
18 River Partners owns property, that would be correct.

19 And it's limited to adjoining landowners. And the
20 reason that adjoining landowners are not brought into this
21 discussion during the initial negotiation, it's just like
22 a private land deal that you have with anybody else. Once
23 it's completed, the neighboring adjoining landowners can
24 review the agreement, and they can look at it.

25 And if they choose, on a voluntary basis, they can

1 sign up for that agreement. In that event, they are not
2 responsible for any of the additional enhancement
3 activities, i.e. the 1500 elderberries or 1200
4 elderberries that we are going to plant on that property,
5 are then applied to their property and their baseline. So
6 if they have ten elderberries on property owner A and ten
7 on property B and ten on property C, they could literally
8 cut down all their elderberries, have no requirement for
9 mitigation, and take advantage of the plants that are
10 planted on our property. That's a voluntary deal.

11 If people are afraid of this agreement, and if
12 people don't understand the agreement and people have deep
13 suspicions about state and federal government, they are
14 not going to be able to take advantage of that.

15 But under the current law, that's the opportunity
16 that's presented here.

17 VICE PRESIDENT HODGKINS: Thank you.

18 PRESIDENT CARTER: Mr. Morgan?

19 LEGAL COUNSEL MORGAN: For the benefit of the
20 Board, my questions went to clarify some of the issues of
21 the Safe Harbor. And I think we had heard some
22 conflicting testimony about whether Levee District 3 could
23 get out and maintain elderberries beyond their levees, or
24 anyone else could get out and maintain the elderberries --
25 maintain the flood flows beyond the area of the levee and

1 the easement.

2 It's pretty clear that they don't just, from the
3 Safe Harbor Agreement, that doesn't give them the right.
4 That's why the conditions that they put in the permit, as
5 they have, require an agreement with River Partners,
6 requiring also a separate agreement with the governmental
7 entity, whether it be Fish and Wildlife or Fish and Game
8 that might, down the road, seek to acquire the property
9 that would -- they would agree to the same sort of
10 maintenance conditions to maintain flow.

11 And if that agreement wasn't in place, River
12 Partners would have to restore the property to baseline
13 before it was transferred. We don't expect the Fish and
14 Wildlife or Fish and Game to want it restored back to
15 baseline. So presumably, if we entered into such an
16 agreement, we wouldn't have an independent authority, as
17 the Reclamation Board and state agency, over Fish and
18 Wildlife, but for such a voluntary agreement from federal
19 agencies with the state agency, which they could do. But
20 if they took over the property without such an agreement,
21 there would be no recourse.

22 MEMBER RIE: Can we get a copy of the Safe Harbor
23 Agreement?

24 SUPERVISING ENGINEER FUA: Actually, the Safe
25 Harbor Agreement was part of the Board packet in October.

1 But certainly, I can.

2 PRESIDENT CARTER: Okay.

3 LEGAL COUNSEL MORGAN: Would you like a copy of it
4 during lunch, for instance?

5 PRESIDENT CARTER: In light of the hour, let's
6 take an hour recess. We will continue this discussion at
7 1:30.

8 Thank you.

9 (Thereupon a break was taken in
10 proceedings.)

11 PRESIDENT CARTER: Good afternoon, ladies and
12 gentlemen. Welcome back.

13 As a reminder, we were on Item 13, Applications.
14 Application No. 17659-A, River Partners, Glenn County.

15 We had heard staff testimony. We heard testimony
16 from the applicants and also from the public.

17 And so at this point, I open it up to questions or
18 comments from the Board.

19 Lady Bug?

20 SECRETARY DOHERTY: On February 1st, I got a list
21 of levees of maintenance concern. And two of those were
22 Levee District 2 in Glenn County, Princeton area; and a
23 Levee District 3, Glenn County, Butte City.

24 Now, apparently, they have been unable to do some
25 of their maintenance because of the elderberry. Right in

1 Butte City, there's an elderberry bush that's growing.
2 And of course, there's rodent holes all around, so the
3 maintenance is not being done, because they are not
4 supposed to disturb that elderberry. So now we're
5 proposing that we plant more elderberries.

6 I would be concerned about the maintenance -- oh,
7 by the way, because these levees are of some concern, they
8 are not eligible for the PL 84-99 emergency funds. So
9 that's kind of double trouble for them.

10 Now, the idea that we would do this project and
11 plant all these elderberries and then turn it over to the
12 Fish and Wildlife or the Fish and Game troubles me in
13 that, at Butte City, underneath the bridge, is an old
14 prune orchard which was given to -- and you can tell me,
15 was it Fish and Wildlife or Fish and Game?

16 MR. EFSEAFF: On the west side?

17 SECRETARY DOHERTY: Yes, on the west side.

18 MR. EFSEAFF: Fish and Wildlife.

19 SECRETARY DOHERTY: That's Fish and Wildlife.

20 Now, there, they have something that they have taken over,
21 and the berries are growing up practically to the bottom
22 of the bridge, which will block overflow waters.

23 Now, how much funds are going to be available if
24 Fish and Game and Fish and Wildlife continue to perform
25 maintenance? I'm really troubled because only 40 --

1 49.9 percent of land in California is owned by either
2 local, state, or federal government. And here, we have
3 another piece that's going to be given away, that we're
4 going to have to take care of.

5 But are -- do we have the funds to take care of
6 this? I'm not sure that planting these eldeberries out
7 there is the best use of this land.

8 Now, maybe a grassland savanna that wouldn't block
9 anything, that might be better. I don't know. But I'm
10 concerned about it holding water in that basin longer.

11 The basin is -- well, it depends on where you go
12 from, either 18 miles or something, say 30-something miles
13 long, 2 miles wide in some places and 12 miles wide at the
14 other end. And it's got to flow through there to get into
15 the basin at the Sutter Buttes area, and then go on down.

16 So for that reason, I'm concerned about this area.

17 PRESIDENT CARTER: Okay. Any other comments?

18 MEMBER RIE: I have some questions for the staff,
19 Dan Fua or Steve Bradley? You don't have to get up.

20 In the Board's regulations, we have supplemental
21 requirements in Title 23, for this particular area. And a
22 lot of that has to do with vegetation being 36 inches or
23 less.

24 I'm just curious, have you guys looked at that
25 section of the regulations to see if there's any conflicts

1 with the proposed eldeberries?

2 SUPERVISING ENGINEER FUA: Do you have a specific
3 article number?

4 MEMBER RIE: Section 135.

5 CHIEF ENGINEER BRADLEY: Section 135 essentially
6 identifies the different areas within the Butte Basin and
7 what's allowed within those. Primarily, if you have
8 encroachments, such as fills, if they are less than 36
9 inches, they can go on without a permit.

10 You have the same type of criteria for the Yolo
11 Basin. This is primarily an agricultural area. Like I
12 said, it's a natural overflow area that we do not have
13 flowage easements on. But it does naturally overflow in
14 this area. What we want to do is make sure the water does
15 continue to flow through there. Because if it doesn't,
16 the system absolutely will not work.

17 So our primary concern is to make sure there's
18 nothing that goes in, that has a huge impact on ability to
19 flow water through that area.

20 Talking about specific to this one, it's more that
21 that is an area -- I believe that's area E. And those
22 conditions apply.

23 MEMBER RIE: How large do elderberries grow to?

24 CHIEF ENGINEER BRADLEY: I'm not an elderberry
25 expert, but they are in the 20- to 25-foot range.

1 MEMBER RIE: In height?

2 CHIEF ENGINEER BRADLEY: They are a very small
3 tree or very large shrub, however you want to look at it.

4 MEMBER RIE: Do they have the potential to impede
5 the flood flows?

6 CHIEF ENGINEER BRADLEY: I think, depending on the
7 depth, and depending on how dense they end up being, they
8 do propagate fairly easily. Most of them are from birds;
9 they eat the berries and then deposit them all over.

10 There's been some talk about flows distributing
11 the seeds. I'm not sure whether that's been a proven
12 fact. I mean, that's something that certainly goes on,
13 but I'm not sure that's a major way they reproduce. I'm
14 not an expert in this field. And that's really a
15 biological question.

16 MEMBER RIE: Assuming that they grow pretty large
17 and they propagate and the area becomes covered with
18 elderberries, do we have the ability, since they are
19 considered incidental tape, to go in and remove them, if
20 we have a problem, we as the Rec Board?

21 CHIEF ENGINEER BRADLEY: You mean under an
22 incidental tape provision or any elderberry that's under
23 the jurisdiction of the Board?

24 MEMBER RIE: If they become a threat to the
25 capacity of the flood control system, will the Rec Board

1 have the ability to go in and remove them?

2 CHIEF ENGINEER BRADLEY: On this project?

3 MEMBER RIE: This particular project.

4 CHIEF ENGINEER BRADLEY: Yeah. Dan wants to
5 address that.

6 SUPERVISING ENGINEER FUA: The answer to that
7 question is yes.

8 And first, you know, as I said, a Safe Harbor
9 Agreement allows that to happen. And secondly, the draft
10 permit also specifies that River Partners enter into an
11 agreement with the Board to ensure that, you know, the
12 flood-carrying capacity of the Butte Basin is not impeded.
13 So both the Safe Harbor Agreement and the proposed draft
14 permit would, you know, allocate [sic] that concern.

15 MEMBER RIE: I took a brief look at the Safe
16 Harbor Agreement, and I couldn't find anything that gives
17 the Reclamation Board the right to go in and remove these
18 plants.

19 CHIEF ENGINEER BRADLEY: I think that's what Scott
20 Morgan was addressing earlier. That refers to the
21 Department of Water Resources; does not refer to the State
22 Reclamation Board. Also, there is the ability to actually
23 access the property. We don't have property rights to
24 access the property for that maintenance. We may be
25 allowed to do it, but those were two issues, I believe,

1 that Scott or Board Counsel actually addressed.

2 VICE PRESIDENT HODGKINS: Could I expand the
3 nature of that question? Let's make the assumption that
4 somebody decides to grow boysenberry and be grown on
5 trellises, solid vegetation, on property, somewhere in the
6 Butte Basin.

7 What authority do we have to go in and say, "You
8 can't do that"?

9 LEGAL COUNSEL MORGAN: Right now, if someone in
10 the Butte basin was coming before the Board for a permit,
11 it would be a reasonable condition of the permit to say
12 that the vegetation couldn't impede flood flow, and to
13 require the applicant to agree to maintain the property in
14 a way so that it would not impede flood flow. This permit
15 has language to that effect. River Partners would be
16 required, if the permit is approved, to enter into a
17 specific agreement with the Board, that River Partners
18 would maintain the property in such a way that it would
19 not impede flood flow and mitigate for any impacts if it
20 did. They would go in and maintain the area or allow us,
21 the state, to come in and do it if they don't.

22 And then there was the other -- the shoe dropping,
23 that since they plan to transfer to somebody else, whoever
24 they transfer would have to do that. They would have to
25 restore it to baseline if the subsequent purchaser of the

1 property, or subsequent title holders of the property,
2 didn't want to agree to those terms in advance.

3 VICE PRESIDENT HODGKINS: You -- I think maybe I
4 didn't phrase my inquiry. This is a farmer who decides he
5 wants to grow something on his property in the basin, that
6 we can recognize might eventually become an impediment to
7 the flow.

8 Are you saying he has to come and get a permit?

9 LEGAL COUNSEL MORGAN: Yes.

10 VICE PRESIDENT HODGKINS: Is that right, Steve?
11 Do you agree with that, Steve?

12 CHIEF ENGINEER BRADLEY: Yes. In general,
13 agricultural activities get a pretty easy look in a lot of
14 ways. But what the regs say is, approval from the Board
15 is required for any encroachment that could reduce or
16 impede flood flows or would reclaim any of the floodplain
17 within the Butte Basin.

18 So I think if an agricultural interest wanted to
19 plant boysenberries and fill in solid, across the Butte
20 Basin, significantly impacting the ability of flow of
21 water, take a permit on that, or require them to get a
22 permit to do that.

23 VICE PRESIDENT HODGKINS: Okay. So clearly, we
24 have the authority, if somebody is impeding the flow, to
25 require that they stop.

1 CHIEF ENGINEER BRADLEY: That's correct.

2 VICE PRESIDENT HODGKINS: Okay. I wasn't sure of
3 that. We have no easement.

4 LEGAL COUNSEL MORGAN: No.

5 CHIEF ENGINEER BRADLEY: But it is part of the
6 state's plan -- adopted plan of flood control. It is a
7 regulated area.

8 VICE PRESIDENT HODGKINS: I hear you. I hear you.

9 PRESIDENT CARTER: Lady Bug?

10 SECRETARY DOHERTY: I have a question for
11 Mr. Larrabee.

12 South of the Butte City bridge, there is an area
13 where elderberries have been planted; is there not?

14 PRESIDENT CARTER: Mr. Larrabee, could you come up
15 and --

16 MR. LARRABEE: South of the bridge?

17 SECRETARY DOHERTY: South of the bridge, is there
18 an area where there have been elderberries planted where
19 you can't go in and clean?

20 PRESIDENT CARTER: Come on up to the mike,
21 Mr. Larrabee, so that everyone can hear you.

22 MR. LARABEE: I'm not aware of them being planted
23 necessarily, but they are going on the levee slope. And
24 DWR has easement. And that's where we are having some of
25 the issues.

1 SECRETARY DOHERTY: So the ones that are growing
2 there are voluntary; there's no field down in there where
3 elderberries have been planted?

4 MR. LARRABEE: Not to my knowledge. But I
5 understand that Fish and Game -- Fish and Wildlife has the
6 authority to plant them as they will. There have been
7 some planted there, north of the causeway. They are going
8 all over, in that area.

9 SECRETARY DOHERTY: All right. Thank you.

10 VICE PRESIDENT HODGKINS: Suppose that in
11 connection with granting this permit, we could come up
12 with an arrangement whereby whenever you have levee
13 easements, we could agree that, say, NRCS would go in and
14 do a baseline survey. Okay?

15 But to do that, and this is confined just now to
16 your easements on the levees, to do that for that
17 particular piece of property, the easement on the levee,
18 you have to get the property owner to sign off and say, he
19 also is going to allow them to enter onto that piece of
20 property only and do the survey. Okay?

21 Once the survey is done, if you -- those -- these
22 are how you will get the survey done. If you were part --
23 you could add onto this Safe Harbor Agreement to this
24 property, that particular settlement of your system and as
25 a result of that, you would have the right to go in there

1 and remove those elderberries.

2 Would you be interested in that at all? That puts
3 a lot of burden on you, because people don't like giving
4 anybody access to see if there are elderberries. This is
5 just on the levee, but you still have to get the
6 underlying property.

7 MR. LARRABEE: If we could find a way to remove
8 these elderberries without being at risk, I think that
9 would be beneficial for everyone. But I think the
10 fundamental thing here is the private property, the
11 landowner.

12 We have letters from Fish and Wildlife, Fish and
13 Game stating it's okay. You have the Corps, federal
14 agency, saying we want a clean, visible, easily-inspected
15 slope, all from the same -- all from the overlay. The
16 right hand is not talking to the left hand. And I'm
17 fearful that this -- I hate to sound cliché -- this
18 piecemeal approach is not the correct way to do this.

19 I think -- it needs to be resolved from the top
20 and come down, so we don't have all this discussion about
21 maybe this, what that, legal issues, on and on and on, is
22 subject to interpretation down the road and we have a
23 problem. I think it should be resolved now, up top.

24 Does that answer your question?

25 VICE PRESIDENT HODGKINS: Yeah, except "up top"

1 isn't here.

2 And I think President Bush refuses to get involved
3 in this discussion. Okay? And from what I can see, so
4 does Congress. And that's where this conflict is coming
5 from.

6 And I offer you this because if you were really
7 seriously interested, it could be done. But if the
8 principle here -- and I understand how important that
9 private property principle is. If that comes first and
10 you don't think you could ever -- not you personally,
11 but -- but all of the people you represent in your
12 maintenance activities can deal with that, I can
13 understand that. And I'm asking simply to know whether
14 it's worth trying to weigh into this, in pursuit.

15 MR. LARRABEE: Again, anything you could do to
16 remove them would be helpful. But we're not having that
17 cooperation now, the way it is.

18 We're supposed to have landowner permission, as I
19 understand it, to go in and do some of the activities that
20 we do now. We have to physically drive around private
21 property to maintain things. And we are, in fact, more or
22 less denied that today.

23 And I don't know that that would get any better,
24 if you wanted to try to apply this Safe Harbor Agreement
25 to the neighboring lands. That's just me.

1 VICE PRESIDENT HODGKINS: I think the question is:
2 Do you want to sit down and really try and see if you can
3 do it or not? And that's all it is.

4 MR. LARRABEE: I would be interested in any kind
5 of solution. I don't think -- I don't think it will work,
6 not through this approach.

7 I think the private property issue is so paramount
8 with people that -- in light of what's happened in the
9 last several years -- flooding, Katrina, levee issues -- I
10 mean, I've heard it all today and on other trips, people
11 who live up in our area are fearful of that, and they want
12 those levees maintained and solid, I mean, for their own
13 well-being. And the old way isn't working. I call it the
14 "old way." That past way. They are not working.
15 Something else should happen -- needs to happen.

16 VICE PRESIDENT HODGKINS: I agree with you, that
17 it's -- things are not working well.

18 PRESIDENT CARTER: Mr. Larrabee?

19 VICE PRESIDENT HODGKINS: There are different ways
20 to move forward.

21 PRESIDENT CARTER: Mr. Larrabee, is one of the
22 reasons -- your Levee District 3 appears on the Corps'
23 list of noncompliant levee maintenance areas; why is that?
24 What -- what areas were you deficient and why?

25 MR. LARRABEE: The areas -- there's a list. They

1 mark them in river mile starting from south to the north.
2 The area three to almost four was on that list quite a bit
3 for vegetative encroachment, lack of visibility for
4 inspection, rodents. That is all the area owned by the
5 Fish and Wildlife Service. I've showed you pictures;
6 those are where those eldeberries are growing.

7 River mile 6 is Butte City --

8 PRESIDENT CARTER: Are you saying that the
9 vegetation isn't being managed because of the
10 elderberries?

11 MR. LARRABEE: Well, there's elderberries and
12 other vegetation that we can't manage anyway, because we
13 have to stay away from these elderberries.

14 There are blackberry vines, there are trees, woody
15 shrubs, perennial plants, that over the years have begin
16 to accumulate. And we can't even drive down on the
17 side -- on the bottom of the levee. And there's no toe
18 row maintained by the landowner, nothing, to get in there
19 and do that.

20 PRESIDENT CARTER: Okay. Other -- other areas?

21 MR. LARRABEE: There was a reference to a rodent
22 population. They took a picture of the Butte City
23 Warehouse. It is that spot right there. This was the
24 Corps' version. At River Mile 12, which is all the way to
25 the north trees on the levee, that was significant.

1 That's where the gate -- with Llano Seco, where I showed
2 you all the oak trees are growing and all that stuff.

3 I mean, that's -- we're not perfect. But many of
4 these places were addressed in that way. And they are
5 essentially places that we have a hard time working with.

6 PRESIDENT CARTER: And but none of these spots are
7 on the proposed project location?

8 MR. LARRABEE: I believe probably not now. The
9 area at River Mile 12 was on their list, and I don't know
10 how far down that extends. There is an elderberry on the
11 levee up there. There seems to be some question as to
12 whose land it is. I think it belongs to this property.

13 PRESIDENT CARTER: They pointed out, there was one
14 preexisting elderberry on the waterside of the levee, near
15 the toe. We don't know exactly how close.

16 MR. LARRABEE: There is a small one. It's about
17 this tall. I have a picture of it. It's growing up on
18 the slope itself.

19 PRESIDENT CARTER: Okay. All right.

20 SECRETARY DOHERTY: And so these landowners, where
21 you're -- where you can't go along the toe of the levee
22 are federal or state owned lands?

23 MR. LARRABEE: Yes.

24 SECRETARY DOHERTY: Fish and Wildlife or Fish and
25 Game?

1 MR. LARRABEE: Mostly all federal.

2 SECRETARY DOHERTY: And so they are not keeping
3 the roadway open so that you can inspect those levees?

4 MR. LARRABEE: No. And we were there a few years
5 ago, hired a dozer, spent \$10,000 to push back and make
6 that levee toe in, and it's since grown back, and we have
7 no access. There's nothing -- there's no part on the
8 landowner to help maintain this easement.

9 SECRETARY DOHERTY: And when you say "landowner,"
10 you are speaking of the federal or the state?

11 MR. LARRABEE: Those are the areas we're having
12 the most trouble with. And those are commonly the areas
13 where there is elderberry.

14 PRESIDENT CARTER: Okay.

15 MEMBER RIE: So these lands right now that have
16 the elderberries, are they interfering with your ability
17 to like fight floods?

18 MR. LARRABEE: Yes.

19 PRESIDENT CARTER: Any more questions?

20 Thank you.

21 What's the Board's pleasure at this point?

22 We'll entertain a motion to approve. We will
23 entertain a motion to deny.

24 VICE PRESIDENT HODGKINS: To get this started, I
25 will make a motion to approve with the modifications that

1 Scott talked about, to make sure the Reclamation Board,
2 San Joaquin -- Sacramento/San Joaquin District is covered
3 by the --

4 LEGAL COUNSEL MORGAN: There were actually two --
5 just to familiarize or remind you what they were, two
6 suggested changes: One was to replace current Special
7 Condition 39 with a new one that would say that "no work
8 subject to this permit shall be allowed until the
9 permittee has complied with all conditions of this permit
10 including special conditions"; and then that we would add
11 another condition to the permit requiring modification or
12 clarification of the Safe Harbor Agreement from the Fish
13 and Wildlife Service to indicate that the flood activities
14 authorized would relate to anything approved by the
15 Reclamation Board.

16 PRESIDENT CARTER: Okay. So we have a motion to
17 approve with the stipulated changes to the special
18 conditions in the permit that we have before us.

19 Is there a second?

20 Hearing none, the motion fails.

21 The motion does not get a second.

22 So again, what's the pleasure? Somebody else have
23 another suggestion?

24 SECRETARY DOHERTY: I make a motion that we deny
25 this permit.

1 PRESIDENT CARTER: Okay.

2 Is there a second on that motion?

3 I would second that motion.

4 So we have a motion and a second.

5 Any discussion?

6 MEMBER RIE: Yeah.

7 You know, we had a lot of discussion about the
8 Safe Harbor Agreement. And Scott had some really good
9 questions about how the Rec Board can be protected.

10 My concern is with Reclamation District 3. Where
11 do they fit into this Safe Harbor Agreement? Currently,
12 they are having trouble maintaining what they have. The
13 elderberries that are out there now are interfering with
14 flood fighting.

15 How do we incorporate protection through
16 Reclamation District 3 into the Safe Harbor Agreement, or
17 some other agreement, that will allow them to flood fight,
18 remove all the elderberries on levees, where necessary?

19 MR. CARLIN: The intent of the Safe Harbor
20 Agreement --

21 PRESIDENT CARTER: Please come on up to the
22 microphone, so everyone can hear you, Mr. Carlin.

23 MR. CARLIN: The intent of the Safe Harbor
24 Agreement is to address all of the problems that we've
25 just been talking about here, in the last few minutes.

1 I think the actual permit right now states River
2 Partners or its designee. So if Levee District 3 needs to
3 come in and do the maintenance, that would actually work
4 under the existing permit, in my opinion. And that was
5 certainly the intent of everybody who crafted that
6 document.

7 Our interest isn't to go in and yank out
8 elderberries. Fish and Wildlife interest isn't to go and
9 the take out elderberries. So the people that would be
10 required to do that would be people that are responsible
11 for maintaining the levee. Or if they are in the toe of
12 the levee, we would be responsible.

13 So then you get into kind of a legal discussion
14 of, well, is that Levee District 3? Is it -- is it the
15 Department of Water Resource Maintenance Division in terms
16 of flood fight, or is it the Reclamation Board? And we've
17 had this discussion. And again, I will point out that we
18 ask Mr. Morgan do write exactly what language you would
19 like to see in the Safe Harbor permit.

20 Is it the Rec Board and the Department of Water
21 Resources and Levee District 3? And all those folks can
22 go in and do the required activities they need to do.

23 We didn't get the language. You know, it was --
24 we waited a couple months. We didn't get the language.
25 And Fish and Wildlife Service took another shot at it.

1 But the point -- the intent of the agreement is
2 that so any elderberries anywhere on that property can be
3 taken out if they need to be taken out, and they can be
4 taken out without a long, costly mitigation procedure.

5 MEMBER RIE: Well, will the Safe Harbor Agreement
6 extend beyond the property lines?

7 MR. CARLIN: It can, but it would require -- but
8 it can't extend beyond the property agreement because we
9 don't want to go in and impinge on people's personal
10 property rights. So we don't want to go to our neighbors
11 and say, "We have a Safe Harbor Agreement and you must
12 take it."

13 They have an opportunity to use the Safe Harbor
14 Agreement at no cost to them. That's their decision to
15 use.

16 Unfortunately, it requires the underlying
17 landowner to sign the agreement. If it was just for the
18 easement -- the San Joaquin Drainage District has an
19 easement for the levee, but the underlying fee title is
20 with the property owner.

21 So in order for, say, all of Levee District 3 to
22 have the benefits of that Safe Harbor Agreement, every
23 property owner who has underlying fee title, under that
24 levee, would have to sign on to the agreement and say,
25 "That's okay."

1 If that were to happen, they wouldn't be required
2 to pay any money. They wouldn't be required to do any
3 mitigation. They would just be required to report an
4 elderberry bush that was larger than 1 inch in diameter
5 that they wanted to take out. And it would be taken out
6 at no cost or expense to anybody.

7 That's really the opportunity of this agreement
8 and why we spend so much time trying to put it together.
9 I think it could be a model.

10 I can't do anything to change Congress, but I
11 think we all have the opportunity here to make it better
12 than it is right now. It's not going to be perfect. But
13 this is a way to make things better. And that's really
14 the opportunity that is before you.

15 VICE PRESIDENT HODGKINS: Can I ask, just to be
16 absolutely certain I understand, they would report the
17 removal of an elderberry greater than 1 inch in diameter,
18 but that's only in the area covered by the Safe Harbor
19 Agreement, which, if we described it here, would be the
20 levee easement.

21 MR. CARLIN: The levee. Now, if they wanted to
22 put -- if they are adjoining property owners, I think they
23 could have any place on their property if they have
24 elderberries.

25 VICE PRESIDENT HODGKINS: If they wanted to.

1 MR. CARLIN: If they wanted to.

2 But you know, I'm not clear if that would work, if
3 you are four or five parcels away. The levee is an
4 adjoining property. I think, you know, there's -- it
5 would be definitely worth trying to get that 12 miles of
6 levee into the Safe Harbor, if that's possible -- I mean,
7 the goal is to plant 1500 elderberries -- if you had to
8 take out 10, 15 elderberries.

9 Mr. Larrabee has spoke about all the problems on
10 public land, Fish and Wildlife land, and federal property.

11 I had a conversation with the refuge manager two
12 days ago, the National Wildlife Refuge. He's meeting with
13 the district supervisors for Glenn County, because no one
14 has ever asked them for their cooperation. At the end of
15 the day, when you live out in the country, you have to be
16 a good neighbor. And part of that is communicating with
17 their neighbors. They have no formal communication about
18 going onto that property.

19 The Fish and Wildlife Service doesn't believe,
20 necessarily, that all these sites are on their property.
21 I think there might be some confusion about where property
22 lines are. And they have supported cleanup of the levees
23 with their fire crew, when there's fires out there.

24 So instead of making this a really -- a very
25 confrontational, adversarial relationship day after day,

1 the alternative is to look at something and say, "This
2 isn't working. How can we make this better? How can we
3 work together a little bit?"

4 And that's what this effort is trying to do.

5 MEMBER RIE: I have one more question for you:
6 Are you guys planning to record a conservation easement
7 over this property?

8 MR. CARLIN: No. Because this property is going
9 to be permanently protected in the conservation. So --
10 just so everyone on the Board is clear, and it's been a
11 long time, this property was purchased with taxpayer
12 dollars, paid for under a grant from the Wildlife
13 Conservation Fund. It's been identified through a very
14 vigorous and thorough request for proposal process, as
15 selected as an important property for wildlife benefits.
16 It's meeting other statewide agendas from other agencies,
17 to put this habitat in this area.

18 Now, our choice would be -- the National Wildlife
19 Refuge is next door; they are the adjoining landowner to
20 the north. We have the option to transfer the property
21 either to the National Wildlife Refuge or to Department of
22 Fish and Game. We would like to transfer the property to
23 Department of the Fish and Game so there will be hunting
24 and public access here.

25 If we rather chose to transfer to the Fish and

1 Wildlife service, we wouldn't have this discussion,
2 because they are exempt from regulatory authority of the
3 Board, and we are trying to extend a good faith effort,
4 and we are trying to figure out a solution that people are
5 going to benefit over this elderberry issue, other than
6 just saying, "This is too much of a battle. We're just
7 going to give it to the Feds, and then we don't have to
8 worry about a permit."

9 So we're here in good faith, and the Fish and
10 Wildlife service is here in good faith. The Wildlife
11 Conservation Board is here in good faith.

12 And I think, again, the opportunity is to reach
13 out and try and -- and try and take advantage of those
14 gestures, or just say, "The system's broken. We need to
15 have something done up above. There's nothing we can do."

16 LEGAL COUNSEL MORGAN: If I could just make a
17 point of clarification on the Safe Harbors agreement.

18 The letter we received from Fish and Wildlife
19 clarified one of the concerns we had. We met with Levee
20 District 3. They have a number of concerns that overlap
21 with the concerns of the Board staff that we wanted to
22 make sure we addressed.

23 One of them -- the principal one was that if you
24 have an elderberry shrub that grows up to a certain size,
25 a diameter of 1 inch for the stem, Endangered Species

1 regulations kick in, that limit your activities within the
2 vicinity of those plants.

3 And both the deliberate plantings and the
4 possibility for the spreading of plantings within the
5 River Partners property would have lead to the possibility
6 that -- well, rather inevitably, that LD3 maintenance
7 activities would be within that regulated zone. What we
8 wanted clarification from Fish and Wildlife and what we
9 got as clarification from Fish and Wildlife was a Safe
10 Harbor Agreement, means that none of the plants that are
11 growing anywhere in that property will be subject to that
12 sort of regulatory control.

13 So LD3 can go about their business. They are
14 still required to maintain the levees. This does not
15 exempt them if a large elderberry shrub grows up the
16 middle of their levee that they have not maintained.
17 That's my understanding.

18 Is that correct from your understanding as well?

19 MR. CARLIN: No. They don't -- are you saying for
20 lack of maintenance, if an elderberry came in, they would
21 have the right to take it out?

22 LEGAL COUNSEL MORGAN: No, I'm saying they would
23 not.

24 MR. CARLIN: They absolutely would have the right
25 to take that out.

1 LEGAL COUNSEL MORGAN: On their levee?

2 MR. CARLIN: On the section of the levee that goes
3 through this property, through River Partners property.

4 LEGAL COUNSEL MORGAN: Okay. That's --

5 MR. EFSEAFF: I'd like to address that. Dan
6 Efseaff, River Partners.

7 The Safe Harbor covers the entire property. Any
8 elderberry found anywhere on our property, we have the
9 ability -- DWR has the ability of take. Unfortunately, we
10 wrote "DWR" on it. We're hoping that extends to the Rec
11 Board as well.

12 The levee district now has every right to take out
13 every single elderberry that's less than 1 inch. It's
14 beyond the regulatory scope.

15 The letter from Dr. Talley that we submitted --
16 and our experience, we monitored somewhere around the
17 order of probably 40,000 elderberry. All indications are,
18 it takes at least three years before you hit a diameter of
19 an inch. If they are growing past that size, it's
20 probably a regular maintenance issue that they are
21 somehow -- missed a year or two or three before they hit
22 that size.

23 So they are covered both ways. The entire levee
24 is covered by anything less than an inch. They have every
25 right to take it out. On our property, which includes the

1 project levee, any elderberry can be taken out, and it's
2 protected without jeopardy on there.

3 LEGAL COUNSEL MORGAN: I'm sorry. I was not aware
4 that the levee ran through the property. I was under the
5 impression that it was adjacent to the property.

6 That's news to me.

7 MR. EFSEAFF: Excuse me. Earlier -- there's 27
8 acres that we talked about on the river side of the levee
9 and that straddles the property -- the property straddles
10 the levee.

11 SUPERVISING ENGINEER FUA: If you look at the map
12 in the staff report, you can see that the 27 acres is
13 beyond the levee. So part of the levee is part of the --
14 it's within the Safe Harbors agreement enrolled property.

15 PRESIDENT CARTER: My question is: If the Safe
16 Harbor Agreement is executed and participating -- and
17 adjacent landowners can't participate, does the Fish and
18 Wildlife service intend to sign the Safe Harbor and
19 participate, so that the Levee District 3, who does have
20 problems, they say, with elderberries on the Fish and
21 Wildlife Service property, they can go in and take those?
22 I mean, what -- they are a property owner. They are
23 adjacent. It's their agreement. Are they going to sign
24 on to it as well?

25 MR. EFSEAFF: You are hitting on something

1 that's -- when we first got the Safe Harbor, the intention
2 was strictly to solve it on our property. But as we got
3 into it and asking questions with the U.S. Fish and
4 Wildlife, that opportunity became very apparent that
5 adjacent landowners, and can stay now within some
6 reasonable distance, can sign on them.

7 So that entire -- for example, that entire 12
8 miles of Levee District 3, if the underlying property
9 owners signed on the agreement, that's contiguous with Del
10 Rio, that entire levee could be protected under that Safe
11 Harbor.

12 PRESIDENT CARTER: So I understand that's the
13 opportunity. I -- is there anybody from the Fish and
14 Wildlife Service that can speak to their desire or intent
15 to sign on to this?

16 MR. EFSEAFF: Unfortunately, Shannon and Rick had
17 to leave. But they have indicated to us pretty clearly
18 that their intent is -- it's two things: The whole reason
19 for this is to solve some problems and you don't have to
20 go to a congressional level. They solve it at the local
21 level. They try to have some --

22 PRESIDENT CARTER: With all due respect to the
23 Service though, you know, until it's in writing, it's not
24 very good, and they are the Service. They are the federal
25 government, and all bets are off as far as the state

1 agency is concerned.

2 So it's a little bit hard to swallow from our
3 perspective.

4 MR. EFSEAFF: President Carter, if there are
5 specific questions like this, they have been very
6 responsive. They supplied the letter earlier. If you
7 guys have specific questions, we're more than happy to
8 share with them. And I think they will respond to it in a
9 forthright manner.

10 VICE PRESIDENT HODGKINS: What are the chances
11 that if we went and talked to Mr. Larrabee to get a better
12 idea, specifically of the federally-owned property,
13 without creating problems, because there are elderberries
14 on or adjacent to the levees. And then we went out -- you
15 went out -- but I think we would help you -- and we would
16 see if we could get those agencies to tell us whether or
17 not they are willing to -- and have to look at the
18 continuity, how close they are. I don't know how that
19 works, but we'll figure that out. And then come back with
20 those agencies, in effect, saying, they are willing to
21 grant the necessary signature for the underlying property
22 owner if Levee District 3 would be there to make sure it's
23 clear that it only applies to the property that is in
24 the easement. And if you need an additional ten feet to
25 get by, I don't know. We might be able to deal with that

1 too.

2 Could we do that in a month?

3 MR. CARLIN: I think absolutely. Absolutely.

4 SECRETARY DOHERTY: And in your presentation, you
5 said that all the neighbors seem to be in accord with your
6 plans. And yet you've got people sitting here in the
7 audience that are living right there, that are concerned
8 about this project.

9 MR. EFSEAFF: My statement was that all adjacent
10 landowners. All of our immediate neighbors.

11 SECRETARY DOHERTY: Isn't Mr. Southam immediately
12 adjacent to that?

13 MR. CARLIN: His uncle signed a letter of support
14 for the acquisition. He doesn't live there.

15 MR. EFSEAFF: We actually have a pretty good
16 relationship. We have been cooperating on the road that
17 we share. And we -- we and the Southams have not had an
18 issue.

19 MEMBER RIE: Thank you.

20 I have a question for Mr. Morgan.

21 LEGAL COUNSEL MORGAN: Okay.

22 MEMBER RIE: I don't remember what your name is,
23 but the gentleman from River Partners said that --
24 something to the effect if he couldn't get any resolution
25 here, with our Board, he was going to perhaps transfer the

1 property over to Fish and Wildlife. And if that happens,
2 we would have no jurisdiction. So I want to ask you about
3 the jurisdiction.

4 Isn't this a federal flood control plan, not just
5 a state plan of flood control?

6 LEGAL COUNSEL MORGAN: It is part of the adopted
7 plan of flood control. This system has to provide -- the
8 federal government has nothing to do with the Butte Basin
9 however. This feature of the project is required to allow
10 the amount of water to flow into the system the way it was
11 designed by the federal government. But basically it was
12 just left to flood. It had always flooded historically,
13 as Steve explained and can explain better than me.

14 At any rate, the whole idea was to just leave it
15 in its natural state, more or less, with some slight
16 modifications, such as the levee that splits the flow.
17 And I will let the engineers describe how it physically
18 works.

19 But the question, would the Board have any ability
20 to tell Fish and Wildlife what to do if it purchased the
21 property? The answer would be no. In the past, Fish and
22 Wildlife has come to the Board and discussed plans that it
23 has had for restoration projects in various places in the
24 Sacramento Valley. And the most we have been able to do
25 is make suggestions and indicate concern about hydraulic

1 impacts where we thought they were going to occur. And
2 basically the Board has the power of public opinion behind
3 it, because one of the things I recommended to the Board,
4 in the past, is, if there's a project being undertaken by
5 the federal agency, that's going to adversely affect flood
6 flow. The Board has a duty to send notices out to all the
7 property owners in the area, advising them of a federal
8 project and reducing their flood protection. And that's
9 all we can do. And that usually has a pretty powerful
10 persuasive impact. They usually modify the project.

11 MEMBER RIE: So let's say they did transfer the
12 property to Fish and Wildlife, and the elderberries got
13 out of control, and the hydraulics stopped working and
14 there was a flood.

15 Would the federal government then be liable or
16 would the State of California be liable?

17 LEGAL COUNSEL MORGAN: I would rather not discuss
18 that. That's pretty speculative.

19 I think I can certainly address the State of
20 California's issue. The State of California is not going
21 to be responsible for modifications to any project or a
22 feature of a project that will be undertaken by the
23 federal government. The federal government does
24 something, and they use the federal preemptive to trump
25 whatever they want to do. They have taken responsibility

1 for it. Whether they are liable for it or not is another
2 question.

3 MEMBER RIE: Okay. If they do come in and
4 interfere with the State's plan of flood control it's them
5 who is interfering with us?

6 LEGAL COUNSEL MORGAN: They have done it; not us.

7 MEMBER RIE: Thanks.

8 CHIEF ENGINEER BRADLEY: A couple of
9 clarifications: One, we talked about the Butte Basin, but
10 this is a project that runs through the project site. So
11 that is part of the federal plan of flood control.
12 Federal government doesn't accept the Butte Basin, per se,
13 but there is a federal levee that goes up to this
14 property, and the levee maintenance that's required is
15 part of the federal project as well as the state project.

16 LEGAL COUNSEL MORGAN: And I spoke with Steve. He
17 showed me the map. I should not be practicing law with a
18 head cold, but it escaped my notice, until just now, that
19 the levee actually runs right through the property, and
20 the entire levee is subject to the Safe Harbors agreement.
21 And I don't believe that River Partners folks can confirm
22 this for me. But I don't believe that Levee District 3
23 has to do anything to benefit from the Safe Harbors
24 provision for the portion of the levee that is on the
25 River Partners property.

1 This was -- this is something that's been a little
2 unclear. I think there's been some conversation back and
3 forth. I -- because I always assumed that the property
4 ran up to the levee and stopped.

5 Now I think I understand how this Safe Harbors
6 agreement, even with no action by River Partners -- excuse
7 me, Levee District 3, would give Levee District 3 the
8 latitude to remove any and all elderberries on that levee
9 that's within the Safe Harbor turf; is that correct?

10 MR. EFSEAFF: That's correct, Mr. Morgan.

11 LEGAL COUNSEL MORGAN: Let me ask about: There is
12 the one elderberry that we've heard reference to, which is
13 on LD3 and I believe is not on our property.

14 MR. EFSEAFF: It's on our property. There's --
15 it's approximately 10 feet away from the toe -- 10 feet
16 away from the 10 feet at the toe.

17 LEGAL COUNSEL MORGAN: That's the baseline.

18 MR. EFSEAFF: That's the baseline.

19 LEGAL COUNSEL MORGAN: I believe there was from --
20 from LD3, they referred to a plant that was on their levee
21 and they could not maintain around it. Is that a
22 different one?

23 MR. EFSEAFF: That might be on the private
24 property just north of the bridge. Is that where --

25 SECRETARY DOHERTY: Yes, by the warehouse.

1 MR. EFSEAFF: It's on private property.

2 LEGAL COUNSEL MORGAN: All right. And when I
3 was -- I thought that Mr. Hodgkins referred to earlier, is
4 there any way to somehow remove that one and mitigate
5 forward in this Safe Harbors area to eliminate some of
6 these LD3 problems? I think that was being referred to,
7 if I understand correctly.

8 MR. EFSEAFF: That would be a good question for
9 Fish and Wildlife to verify. However, what they have told
10 us is they have considerable latitude on what's considered
11 within the region -- within the vicinity of the site.

12 Typically, adjacent landowners are, you know,
13 easily on it. Extending out from there, they like to see
14 linkage. So if you have a property that's, you know, some
15 miles away, there needs to be some linkage to the property
16 that has a Safe Harbor Agreement.

17 LEGAL COUNSEL MORGAN: Well, I guess what I'm
18 wondering, is there a way to trade a bush on the levee to
19 increase the baseline in the Safe Harbors area by one or
20 two or whatever?

21 MR. EFSEAFF: Yeah. If you are talking about a
22 hypothetical situation, if there's something downstream
23 that's enrolled in the program, they can take out all of
24 their elderberry, and the baseline will get transferred
25 essentially onto our property.

1 So if we have that one on our property and they
2 have ten next door, they could take out all ten. What
3 that does is it transfers that to us, where it's
4 appropriate to have habitat and appropriate to have the
5 management. They get the ability to take for us providing
6 the benefits of the species.

7 MEMBER RIE: How is long-term maintenance going to
8 be funded by Fish and Game?

9 MR. EFSEAFF: Well, I guess you could ask -- how
10 is long-term maintenance? By Reclamation Board and levee
11 districts and everywhere else.

12 MEMBER RIE: They have assessments districts?

13 MR. EFSEAFF: Assessment districts. Within the
14 Fish and Game -- this one goes to Upper Butte Basin and
15 Wildlife Area. I think it's in the letter that Mr. Blake
16 provided, Fish and Game. He has actual numbers in there.
17 I think they have a budget of over a million dollars --
18 over \$1.2 million a year for maintenance activities, and I
19 think a staff of 18 or so.

20 PRESIDENT CARTER: Ladies and gentlemen, we have a
21 motion before us, with a second.

22 Do we have any more new discussion on this? If
23 not, I would like to call for the vote.

24 Does everyone understand, the motion is to deny
25 the permit. So Mr. Punia, could you call the roll,

1 please.

2 GENERAL MANAGER PUNIA: Board member Butch
3 Hodgkins?

4 VICE PRESIDENT HODGKINS: No.

5 GENERAL MANAGER PUNIA: Board member Terry Rie?

6 MEMBER RIE: Abstain.

7 GENERAL MANAGER PUNIA: Board Member Lady Bug.

8 SECRETARY DOHERTY: Yes.

9 GENERAL MANAGER PUNIA: President Ben Carter.

10 PRESIDENT CARTER: Yes.

11 So the motion fails. So we're back to ground
12 zero, ladies and gentlemen.

13 What I would propose at this point is that we ask
14 staff to go back to the applicant and the locals. And I
15 would sincerely like to see something in writing from the
16 Fish and Wildlife Services that they intend to enroll all
17 their adjacent properties, and maybe nearby properties
18 that affect the levee maintenance district in the Safe
19 Harbor, so that these elderberries, smaller elderberries,
20 that are growing up in the Johnson grass can be taken care
21 of.

22 Our primary concern is the ongoing -- the
23 maintenance today, and in the future, of flood control
24 system.

25 And to the extent that levee districts are unable

1 to do that, it's unacceptable to this Board.

2 So with that, we'll move on.

3 Thank you very much.

4 VICE PRESIDENT HODGKINS: If it's okay, I would
5 like to work with staff on this issue.

6 MEMBER RIE: I think it would be great if you
7 could help out, Butch.

8 PRESIDENT CARTER: Okay.

9 SECRETARY DOHERTY: Maybe I will come along and
10 help you too. All right?

11 VICE PRESIDENT HODGKINS: All right.

12 PRESIDENT CARTER: Very good. So we have some
13 horsepower behind it. Thank you very much.

14 We had tabled Item 10 for a decision. Let's go
15 back and revisit Item 10, the Yuba River Basin Project.
16 As you recall, this was to consider delegating the
17 authority to the general manager to sign a letter to the
18 U.S. Army Corps of Engineers requesting credit under
19 Section 104 of Public Law 99-662 for flood control
20 improvements within the project area.

21 The draft letter that we have is represented -- I
22 understand that the Corps has some additional changes that
23 we would want to make, but they will be consistent with
24 the intent of the letter according to our legal counsel.

25 Did everybody get a chance to look at that letter?

1 Okay.

2 So --

3 MEMBER RIE: I move to approve the delegation, to
4 sign the letter, to Jay Punia.

5 PRESIDENT CARTER: Okay. We have a motion.

6 Is there a second?

7 SECRETARY DOHERTY: I will second that motion.

8 PRESIDENT CARTER: Okay. We have a motion and a
9 second.

10 Where did Butch go?

11 We need to have him here if we are going to take
12 any action.

13 Any discussion among the remaining three Board
14 members on this?

15 Somebody needs to shorten his leash. Butch
16 apologizes for holding everyone up.

17 We have a motion on the floor to approve the
18 delegation to General Manager Punia to sign the letter to
19 the Corps for Yuba River Basin Project.

20 VICE PRESIDENT HODGKINS: Second.

21 PRESIDENT CARTER: We already have that.

22 Does anybody have any discussion?

23 All those in favor indicate by saying "aye."

24 (Ayes.)

25 PRESIDENT CARTER: And opposed?

1 Motion carries.

2 Thank you Mr. Kerr.

3 MR. KERR: Thank you very much.

4 PRESIDENT CARTER: No permit actions.

5 So we are on to Item 15, the National Flood Risk
6 Management Program. Mr. Rabbon, thank you for your
7 patience.

8 MR. RABBON: Good afternoon. I'm Pete Rabbon,
9 program director for National Flood Risk Management
10 Program.

11 It's a pleasure to be before the Board, and I will
12 leave it up to the Board. Do you want me to spend five
13 minutes? 20 minutes? Your choice. I can make it any
14 amount of time. It is getting late in the day.

15 SECRETARY DOHERTY: Well, I just want to make sure
16 we understand it.

17 MR. RABBON: Okay. The best way for me to confirm
18 that that's happening is, ask questions.

19 SECRETARY DOHERTY: I have to know what to ask
20 before I can ask.

21 MR. RABBON: Okay. Let's get started.

22 (Thereupon an overhead presentation was
23 presented as follows.)

24 MR. RABBON: What I would like to do today is take
25 some of your time. You have been talking about issues

1 literally down in the weeds. And this is going to be a
2 minimum 30,000-foot elevation presentation on some of the
3 things that are happening at the federal level on flood
4 risk management issues.

5 So with that, the Corps of Engineers started a --
6 their Flood Risk Management Program in May of 2006. So
7 it's very new. What you see before you is their vision
8 and mission statement. I will give you a chance to read
9 that. And then I will paraphrase it.

10 The whole idea of what the Corps wants to do, is
11 the Corps wants to take what they have -- keep in mind
12 it's an organization of over 35,000 people. They want to
13 take what they have and make it work better. They want to
14 make sure, as you heard some things here discussed, the
15 left hand talking to the right hand, within the Corps. So
16 they want to make sure that the districts out in the field
17 are talking to headquarters, so they want to integrate and
18 synchronize themselves. Then they want to do that with
19 other federal programs, primarily FEMA. Then they want to
20 go a step further and do that with the state level,
21 regional, and local.

22 Now, most of the people would say, well, isn't
23 that happening now? And the answer is no. It's not
24 happening as well as it should. And we would like to make
25 it happen better.

1 Now, the way this started, though, was -- and I
2 will hit another slide --

3 --o0o--

4 MR. RABBON: This actually was not initiated by
5 the Corps of Engineers. And after this slide, I will show
6 you how it was initiated.

7 What is the Corps trying to do with this program?
8 And here it is. It's summarized in five goals:

9 We want to have accurate floodplain information
10 for the public for the decision makers. We have aging
11 infrastructure. We can't tell you much, though, about it,
12 throughout the nation.

13 Sacramento's done an outstanding job of public
14 awareness, comprehension of flood risk. But that same
15 level of comprehension across the nation is not there.
16 And, in fact, one item we have found out is, after you
17 have been flooded once, the expectation is, you will never
18 get flooded again during your lifetime.

19 So everybody moving back into New Orleans feels
20 pretty safe.

21 We talked about integrating the programs.

22 And then the fifth one is the Corps of Engineers
23 needs to improve their capabilities to truly deliver
24 projects.

25 Now, how did the flood prevention program get

1 started?

2 --o0o--

3 MR. RABBON: You will notice in the lower
4 right-hand corner the Corps' logo, FEMA's logo, and the
5 logo of two nonprofit organizations. ASFPM is a national
6 organization that represents or is an umbrella group for
7 basically organizations involved in floodplain management.

8 NAFSMA is an umbrella organizations that are
9 involved in flood water management. NAFSMA works very
10 close with the Corps. ASFPM works very close with FEMA.
11 Those four organizations are probably the most compact
12 group you can put together in the nation if you talk about
13 flood risk management. It covers federal and nonfederal
14 parties.

15 They are joined together on this organization
16 chart as the independent advisor -- or the interagency
17 flood risk management group, that's found in the middle
18 here. And that was not started by the Corps. It was not
19 started by FEMA. NAFSMA, National Association of Flood
20 and Stormwater Management Agency, brought this group
21 together, brought their leadership together, for the first
22 time in August 2005.

23 So you can see, the things we're doing are fairly
24 new. August 2005, we bring together the four major
25 players for flood risk management.

1 May 2006, they start the Flood Risk Management
2 Program within the Corps of Engineers.

3 This -- the program itself is receiving some
4 fairly high level attention from the Corps. The SES
5 Oversight Group -- let me describe what this is. The
6 Corps has their leadership. They have their civilian
7 leadership. They have their military leadership.

8 The SES oversight is the senior executive service.
9 Those are the highest level civilians in the Corps Of
10 engineers. That group has come together, lead by Ed
11 Ecker, to oversee the Flood Risk Management Program. That
12 actually is something very unusual. The program is
13 normally overseen by an individual SES person. So this is
14 very unusual to bring all of them together to look at one
15 program.

16 But the reason be it is, as we go down further --
17 as I said, we needed to integrate what's happening within
18 the Corps. We need to make sure the left hand is talking
19 to the right hand. And that is the purpose of having that
20 large oversight group, so all the parties are involved.

21 What we have done within the Corps, you can see,
22 we have selected or identified what I call focus areas.
23 There are six focus areas on the bottom of this
24 organizational chart. And these are the activities that
25 they are focusing on. We have not reorganized. We have

1 not created new positions. Well, let me take that back
2 there. There was one new position in this program, and
3 that is me.

4 We have taken everything, and we are working
5 through major management in order to bring all these
6 issues together for flood risk.

7 And so there are six particular areas that we are
8 focused on.

9 Now, what I want to do is, you may have seen
10 things in the newspaper lately: The 122 levees of
11 maintenance concern. I can cover that a little bit later;
12 levee certification, get your levees fixed in a year or
13 FEMA is going to take you out; and those various
14 activities.

15 I'm going to go through these focus areas so you
16 can see what we are trying to do at a national level. So
17 the first one I want to talk of -- and your slide packet
18 will not follow exactly, because I have pulled out all the
19 duplicative slides.

20 So the first one I want to talk about is flood
21 mapping and certifications, that I show in red here.

22 --o0o--

23 MR. RABBON: These are just a few of the
24 activities we are working on, at a national level. First
25 of all, we have done something with the funding for the

1 inspection program in the nation that has never been done
2 before. We have re-prioritized how that money will be
3 spent. As a result of Katrina, I-walls have become a
4 major issue, because of failure and the way they were
5 designed. An I-wall basically is just a concrete wall in
6 the middle of a levee sticking up. And as a result of
7 failures, we have re-prioritized the funding.

8 First priority is take care of I-walls.

9 Second priority is work with the nonfederal
10 agencies to help them assemble the data to certify their
11 levees for FEMA purposes.

12 Third priority is inspect the levees.

13 Before, priority one was inspect the levees. So
14 as you can see, we made some major changes. And we did
15 this in collaboration with FEMA because of FEMA's
16 multi-billion-dollar levee certification program. And
17 some of the actions you are seeing are a result of this
18 re-prioritization.

19 Engineering technical letter. The Corps of
20 Engineers is a matter of practice. It is not in the
21 business to certify levees for FEMA purposes. That is --
22 that is up to private engineers. We are looking closer
23 and saying, wait a minute, Corps of Engineers happens to
24 have a lot of the levees that are out there, that need the
25 certification. So why don't we start working together?

1 The Corps has now -- and this is for nationwide
2 consistency, because we see it does not exist. We will
3 put out, I hope, by March, a letter that will provide
4 technical guidance throughout the Corps, in terms of if
5 the Corps is asked to certify a levee for FEMA purposes,
6 here's the process you will use.

7 And guess what? It's going to be more stringent
8 than what FEMA requires. And guess what else? It's okay
9 to try to do a better job of protecting the public.

10 So what that leads to is that, that last bullet --
11 and I'm going to skip down to it -- risk assessment versus
12 freeboard. The Corps of Engineers will refuse to certify
13 to minimum FEMA level criteria, if they are asked. They
14 instead are going to say, we want to do a more rigorous
15 analysis. We want to feel more confident that the levee
16 does meet minimum criteria and can protect the public
17 behind it.

18 So we will be using a risk assessment process to
19 do this, versus freeboard. Freeboard simply says, will
20 the levee hold in a 100-year storm, in a 3-foot of
21 freeboard.

22 And we're going to say, we want to look closer at
23 that. We want to look at risk. We want to look at
24 probability of the failure. We want to look at what's
25 behind that levee in case it does flood.

1 So we are taking a, what we believe, is a better
2 approach for the public. I will tell you, we are getting
3 major pushback, because at the local level, the primary
4 concern is, we want to certify our levees for FEMA
5 purposes. It's not, we want to protect the public. I
6 mean, that may be implied, but we're talking a different
7 approach in terms of public safety.

8 Now, as I said we're trying to work internally.
9 We also are trying to work externally with our other
10 federal partners. FEMA; we are collaborating with FEMA on
11 all of our policies that will impact FEMA. The last thing
12 we want to do is develop a policy that forces FEMA to
13 make -- to make changes in how their programs work. So we
14 are working with them very close. And this is the one
15 item that I'm very pleased to see, because it's important
16 that the nonfederal entities find themselves working with
17 the federal government, not with the Corps and with FEMA,
18 and find out they have to abide by two different sets of
19 regulations. So we're working very close to try and make
20 that a single government.

21 Certification guidance; it's just more detail in
22 terms of what I talked about, making sure that things are
23 working correctly with FEMA and ourselves on mapping and
24 certification.

25 --o0o--

1 MR. RABON: Inventory assessments is another
2 focus area. Let me tell you what we have done and what we
3 hope to be doing. We have developed a national GIS
4 spatial database. Please don't ask me the details of what
5 that means. But a good layperson description is, it's a
6 very sophisticated database. You can click on a levee
7 someplace and it will bring up all the data that we have
8 available for that particular location or it can point you
9 on where to find it.

10 We are trying -- well, not trying. This is a
11 national level database. It works with FEMA. State of
12 California is developing a database. It will be
13 compatible with that. The intent is to have a single
14 repository for levees across the nation.

15 We have also started a national inventory to
16 assess -- I mean, to populate that database. And you may
17 have read in the newspaper, along with the 122 levees that
18 are deficiently maintained, that there's 2000 levees out
19 there across the nation. There are many more than 2000
20 levees. But there are 2000 levees that are within a Corps
21 of Engineers program. And that's what this national
22 inventory is.

23 Assessment methodology. This is -- we hope to
24 have this out by, I believe, February, and start to test
25 this in the field afterwards. And Sacramento district

1 will be one of the areas where we test this assessment
2 methodology. And this is where we are going to go beyond
3 the concept of freeboard. We are going to be looking at
4 risk. In other words, not just the probability of passing
5 a given storm, but the impact of failure. What are the
6 consequences if that floods?

7 List of deficiently-maintained levees. Lady Bug,
8 I guess you have that list.

9 SECRETARY DOHERTY: I only brought part of it.

10 MR. RABON: Okay. And that was developed at
11 headquarters through this national inventory. And I hate
12 to tell you this: That is just the tip of the iceberg.
13 What they did is, they simply said, let's find out which
14 levees, beyond a shadow of a doubt, have problems. And so
15 they took the list, and they did a sorting and identified
16 the ones that were poorly maintained. It was very simple.

17 There's another list out there that hasn't
18 received as much attention. Again, I said, we need to see
19 FEMA and Corps talk to each other. FEMA has, on their
20 floodplain maps, levees that are certified up to
21 100-year-level protection. They were grandfathered onto
22 those maps, or they were just simply put there because
23 when the FEMA program started for mapping, for flood
24 insurance, there were some federal levees, and they
25 assumed these federal levels provided 100-year-level

1 protection.

2 We have a list of levees on those maps that do not
3 exceed 50-year level of protection. FEMA has that list.
4 The locals that are impacted are aware of those levees,
5 and they too have that list if they are one of the levee
6 owners on there. That's another very easy list that we
7 could create for public safety purposes.

8 Now, there's going to be a -- I have another
9 slide. There is going to be another list that will likely
10 impact the state of California again.

11 Some other items we're working for inventory and
12 assessments in that particular focus area is legislation.
13 We're doing all this work right now on some supplemental
14 funding, about 30 million that was given right after
15 Katrina. And the upcoming budget for at least '08 has
16 another 10 million to continue the program and continue in
17 '07, using part of the 30 million.

18 But what you are seeing happening now is because
19 of special funding. It is not a regular part of the
20 Corps' program.

21 --o0o--

22 MR. RABON: Existing infrastructure and
23 inspections. A couple of things that are going on there.

24 And some of the these items I bring to you and
25 I -- I believe what's probably going to be going through

1 your mind is this disbelief that -- on how we are
2 currently structured. Currently, within the Corps
3 program, there are levees the Corps has authorized and/or
4 built. And there are levees that the local has passed
5 certain criteria, and their levee becomes part of the
6 Corps program. They become eligible for federal funding.
7 Depending on which program you are in, we actually have
8 different inspection criteria for the levees.

9 However, they are clearly doing -- they are
10 clearly both doing the same job at protecting the public.
11 So we are bringing our inspection program into a single
12 program. It will have a increased robustness. It is
13 going to be much more detailed on the inspection process
14 itself. And that will be actually previewed at
15 headquarters next week.

16 We are also -- as a result of that, we hope to
17 make consistent and complete inspections. What we have
18 found out is even given the same guidelines, that one
19 district will end up with a very brief report in terms of
20 their inspection, and another district can have a much
21 more comprehensive and thorough inspection on the levee of
22 the same type. So again we are looking for consistency.

23 The next bullet, inspections to meet Corps and
24 FEMA requirements. The requirements are different from
25 the two organizations, but our concern is, is if we are

1 going to go out there and inspect them, why don't we
2 inspect them once to make sure they meet whatever criteria
3 is out there that needs to be met, be it Corps, be it
4 FEMA. If there's another federal program, does it meet
5 that federal program? And so again, we're trying to make
6 our system work better.

7 Finally, within the infrastructure and inspection
8 review program, trees on levees. Vegetation on levees. I
9 don't know how much you have had a chance to talk with the
10 Sacramento district.

11 The 122 levees that were found deficient was found
12 by looking at maintenance reports. The next list of
13 levees that we expect are probably going to come out, will
14 be those levees that have trees on them, that clearly do
15 not meet our existing regulations and guidelines; be it
16 for complacency on the Corps' part or complacency on the
17 levee owners' part. We believe this is going to be a
18 fairly large list.

19 And this brings up an issue that you heard
20 discussed before you today, that the levee owner says --
21 the Corps says, "Remove the trees." Fish and Wildlife
22 service says, "Keep the trees."

23 Which one do we do? We are in the process, and I
24 hope it will happen by the end of this month's meeting at
25 the national level with EPA and U.S. Fish and Wildlife

1 Service and a fewer other agencies, to start taking about
2 this issue.

3 The Corps' approach is going to be, this is a
4 public safety issue. We are going to try to make -- to
5 ensure the public is protected as well as possible.
6 Resource agencies, we need your help in terms of this
7 process. If there's mitigation, there's mitigation. But
8 if the answer is, "We want you to compromise public
9 safety," then that is not going to be the Corps' approach.

10 Now, is this going to happen through one meeting
11 in February? No. But I think what is important is that
12 you understand that this has reached the level now, to
13 where the leadership within the Corps of Engineers says we
14 need to do something about this.

15 And so it is -- it is an issue that is going to be
16 coming out soon. And I hope it doesn't come out too fast
17 because we are finding, there are so many impacts with
18 this, we want to try to get them addressed so we have
19 answers when we do put out this new policy.

20 MEMBER RIE: Can I ask you a question?

21 MR. RABBON: Yes.

22 MEMBER RIE: So is the Corps leadership advocating
23 removing all trees along the levees, in particular the
24 Sacramento River? Would they advocate removing all those
25 trees, if they are on a levee, the waterside of the levee?

1 MR. RABBON: No. There actually are regulations
2 that allow you to have trees on levees. And so what the
3 Corps is currently advocating is, if you have trees on
4 levees and it is consistent with regulations, then that is
5 fine.

6 If you have trees that are -- that are clearly not
7 within regulations, those will need to be removed. The
8 question is, is how do we go about that process? Because
9 there are many issues that come up with removing a tree.

10 And there's a third category, those that are
11 questionable. And the regulations actually allow the
12 levee owner to have an engineer make a judgment on those
13 types of situations.

14 So there is a system in place. It probably has
15 not been used as well as it should have been,
16 historically.

17 MEMBER RIE: So those regulations on the tree
18 removal, are those the same regulations that are in Title
19 23?

20 MR. RABBON: They will be in Title 23. They also
21 will be referenced in engineering regulations and
22 engineering procedures.

23 We hope to have -- there is -- at this point there
24 is -- there may be a couple of new items coming out. When
25 I say 80 percent I'm simply saying we need to follow

1 existing regulations.

2 VICE PRESIDENT HODGKINS: Pete?

3 MR. RABBON: Initiatives, policy, and legislation.
4 We have a few things going on there. One of those is what
5 we call Silver Jackets. And that is a program. It's
6 state based. And it's trying to get all the right people
7 at the table for the state's benefit.

8 In other words, FEMA has programs that go across
9 the nation, and Corps of Engineers has programs that go
10 across the nation. NRCS, Fish and Wildlife, EPA, have
11 their programs with the state. There's even programs at
12 the local level. What we have found is that the state
13 happens to be a common denominator to try to get people
14 together to help solve whatever the problem is. We want
15 to focus this on flood risk management.

16 A good example is in Ohio. They needed to get a
17 emergency response plan together for FEMA purposes. And
18 they sat down with the Corps of Engineers. And the Corps
19 of Engineers had a program that could fund them to make
20 that happen. So that's just bringing the right people
21 together at the right time.

22 We're trying to do that with California. And we
23 will continue that. Actually, the Floodplain Management
24 Association met today on the other side of town. And I
25 know, a representative from headquarters was speaking to

1 George Qualley, to try to get this discussion of Silver
2 Jackets started for California.

3 National Policy Summit; I show this as a Corps
4 activity. However, in reality this National Policy Summit
5 was put together by ASFPM and NAFSMA. They invited the
6 Corps. They invited FEMA. And they invited a handful of
7 national experts. So we brought together about, I
8 believe, it was 70 people across the nation, and basically
9 asked them: How can the Corps and FEMA do better? And it
10 was, can we make administrative changes? Do we need to
11 change law? That was held, I think, December. And we
12 will preview their draft report next week, the end of next
13 week, on their recommendations.

14 The Corps of Engineers and FEMA will take those
15 recommendations under consideration and use those to help
16 develop a -- an administration package that we want to try
17 to move forward this year. Administrative changes are
18 some of those. Many of these recommendations, we expect,
19 will simply be, do things different; you don't need to
20 change the law. So we are looking at everything.

21 The Interagency Flood Risk Management Committee, I
22 already spoke to this. It's the four agencies in the
23 lower right-hand corner. We have embraced that group.
24 The FEMA has embraced that group. And we're hoping next
25 week, in a meeting, to literally institutionalize that

1 organization.

2 PRESIDENT CARTER: About five minutes.

3 MR. RABBON: Okay. Let me -- let me skip to a
4 couple items. Because there's one project and program.
5 That's just saying we want to work together better.

6 --o0o--

7 MR. RABBON: I want to spend a couple of minutes
8 on this, because it's a -- it's an area where the Corps of
9 Engineers needs help, and the Reclamation Board has
10 historically done a very good job in this process.

11 The Corps has their normal budgeting process. And
12 for this program, that's what this highlights. We work
13 with Congress. We submit what the President -- we submit
14 through the President's budget our request for
15 consideration through the congressional process.

16 Frequently, we do not get the funding that we
17 request. There's a tremendous amount that can be done at
18 the congressional level. I know Mr. Hodgkins is, through
19 SAFCA, has done significant lobbying in terms of trying to
20 help improve the federal budget for the purposes of SAFCA.

21 The Reclamation Board, the California Water
22 Commission, used to do that on a regular basis.
23 California has something right now that literally no other
24 state has, and you should be taking advantage of that.
25 And quite candidly, I don't see it happening.

1 California has money. And when you can go back to
2 your congressional representatives and say, "Look, we have
3 our matching funds; here's what we would like you to do
4 with it. We already have our money. It's on the table,"
5 the ability to influence the budgeting process is so much
6 easier.

7 The '08 budget has just come out, literally, a
8 couple of weeks ago.

9 And February and March is the prime time to be
10 working with the Corps of Engineers, to ask them what --
11 to learn and collaborate with them how you can work with
12 the Corps and then to take that message back to Congress
13 and say, "We have our share of the project. Here's what
14 we would like." If you want money to do PL 84-99, the
15 State of California, I think, has about \$140 million worth
16 of work that has been done with just -- just state money.

17 Corps of engineers, you can create an argument
18 that they should have been paying for that. Have you
19 created a case and got language to ensure you are going to
20 get reimbursed? I think the answer to that is no. Is
21 that opportunity going to slip away? It probably will,
22 unless you can get into the Water Resource Development Act
23 soon.

24 Do you want the Corps of Engineers involved in
25 helping do all these levee assessments that you are going

1 to be spending hundreds of millions of dollars on? If you
2 do, you need to be lobbying for that, because there's no
3 money in the federal budget to do that. But if you step
4 up and say, "It should be cost-shared; it's a federal
5 levee; we have our portion," you've got, in my mind, an
6 opportunity to make things happen and bring some federal
7 dollars into this arena.

8 Okay. In that -- if there's one takeaway, I would
9 hope the Reclamation Board would look at getting involved
10 in trying to bring federal dollars to California.

11 With that, I would entertain any questions.

12 PRESIDENT CARTER: Any questions for Mr. Rabbon?

13 SECRETARY DOHERTY: Very interesting.

14 PRESIDENT CARTER: Mr. Punia?

15 GENERAL MANAGER PUNIA: Pete, I want to commend
16 the Corps for providing this manual for the Non-Federal
17 Flood Control Project O&M manual, which is a good document
18 for us to use. But there should be a similar manual for
19 the Federal Flood Control Project O&M manual, and that
20 will go a long way.

21 Any comments on that?

22 MR. RABRON: Yes, there will be one manual
23 regardless of the type of project. And it will be based
24 primarily on that nonfederal manual which is more of a
25 plain English, layperson type of manual. And so you can

1 be aware, the Reclamation Board had quite a bit of the
2 input in that manual during the final phases.

3 GENERAL MANAGER PUNIA: One more comment: O&M
4 manuals are old. And I think you touched the issue that
5 somehow you will reach an understanding with the U.S. Fish
6 and Wildlife Service and the Corps to come up, hopefully,
7 with a new O&M manual, which addresses this issue. I
8 think that will be a big help for the local agencies.

9 MR. RABBON: I don't believe I said we would reach
10 an understanding.

11 (Laughter.)

12 MR. RABBON: We are going to work together. And
13 for the Corps of Engineers, the -- as we have been saying,
14 public safety is paramount. We might end up not coming to
15 an agreement that can work for both parties. But the
16 Corps is -- at this point, their leadership -- as we said,
17 we are going to move forward on public safety.

18 PRESIDENT CARTER: Any more questions for
19 Mr. Rabbon?

20 VICE PRESIDENT HODGKINS: Pete, I saw this
21 presentation the other day, and it's changed and become --
22 I mean, it looks like the whole thing is advancing
23 forward.

24 MR. RABBON: I changed this only because there
25 have been some changes. And the FMA group was really

1 interested in the PL 84-99 program and the flood mapping
2 program. So I just focused on that one issue. I did not
3 cover the big umbrella in the presentation that you saw.

4 VICE PRESIDENT HODGKINS: Okay. Okay. I think
5 this is, you know, an incredibly important area to move
6 toward. And Pete, because of his involvement with SFPM on
7 the national level and his work here in California, is an
8 ideal person to kind of lead this.

9 So -- and I guess I heard you say that the best
10 role for the Rec Board, or the best thing we could do to
11 help right now, is try and weigh in on the funding for the
12 coming year?

13 MR. RABON: For FY '08. The President's budget
14 has just come out. And you -- I would suggest you work
15 very closely with the Corps of Engineers in terms of
16 developing a program that requires Corps cost-sharing,
17 Corps involvement, and moving that program through -- not
18 just through the Corps process, but more critically
19 through the congressional process.

20 VICE PRESIDENT HODGKINS: Okay. Thank you.

21 PRESIDENT CARTER: Thank you.

22 MEMBER RIE: Is there anything that the Rec Board
23 can do to help with the vegetation issue and removing that
24 where it is critical to remove it, for levee safety?

25 MR. RABON: We are going to -- because of the

1 sensitivity of this issue -- and we're still in
2 discussions at the headquarters. I have recommended that
3 we have a field testing of the policy before the policy is
4 final. And I further hope that that field testing is done
5 in an area like Sacramento, so that the Corps, Sacramento
6 District, along with the levee owners, can walk through a
7 portion of a levee, try to apply the policy, and see what
8 the impacts are, see what trees go in, what trees come
9 out, and continue on through the process, what it will
10 take to remove it. So we want to test that, and it will
11 be done with a levee owner. So there is going to be
12 involvement.

13 If it happens, if we can make it happen, it's a
14 test section in Sacramento, it will be on a levee where
15 the Reclamation Board is the nonfederal sponsor. So the
16 Reclamation Board should have a role. I do know, DWR does
17 the inspections, but from the Corps' eyes, the responsible
18 party is the Reclamation Board.

19 PRESIDENT CARTER: Okay. Mr. Bradley?

20 CHIEF ENGINEER BRADLEY: Yeah. A couple of
21 things: One, I want to point out that the system the
22 Board regulates or provided assurances for is not a
23 FEMA-compliant system. It does not provide hundred-year
24 flood protection. It is also not risk based. It is based
25 on 3 feet minimum of 3 feet of freeboard throughout the

1 system.

2 The problems that we keep running into with
3 applicants is they need FEMA certification, when our
4 system is not designed for hundred-year flood protection
5 that they need.

6 And so in order to get that, in many cases, the
7 plan of flood control needs to be changed so that it can
8 provide that. The problem with that is assessing the
9 impacts of those changes on a system-wide basis.

10 But like I said, our system is not FEMA compliant;
11 it's not designed to be FEMA compliant. It provides only
12 certain levels of protection at certain elevations.

13 PRESIDENT CARTER: We are undertaking a project to
14 try and understand what those impacts and how to deal with
15 those.

16 So with more on that next month, I believe.

17 MEMBER RIE: Thank you for coming today. It was
18 very interesting.

19 MR. RABBON: My pleasure.

20 And Mr. Punia and Mr. Bradley know how to get
21 ahold of me. So if you do have any questions at the --
22 more of the policy level, I would be pleased to answer
23 those.

24 PRESIDENT CARTER: Thank you. Please stand by.

25 Mr. Tilton, you wanted to speak on the National

1 Flood Risk Management Program. You have five minutes.

2 MR. TILTON: Yes, just briefly.

3 My name is Wes Tilton, and I'm a resident of
4 Discovery Bay. Thank you, Mr. President, Reclamation
5 Board, for allowing me to speak. I noticed -- and thank
6 Mr. Rabbon for such a nice presentation.

7 And I notice on there that everybody is concerned
8 about trees on levees, but no one mentioned houses on
9 levees. This is a known fact, as Mr. Bradley so
10 succinctly put when he visited, and said that he knew
11 about houses on the levee. And it's not on the land side
12 of the levee, but the waterside of the levee. And he also
13 knows the fact there is no access road on that levee, and
14 this levee is part of the water system for 22 million
15 Californians.

16 The question I have is: Does this Board have any
17 input into Mr. Rabbon's report? And if it does, are they
18 engaged on this subject other than just trees. But the
19 protection of public safety as you have said before, and
20 I'm sure it's one of your conditions. If you are involved
21 and you are engaged, then I say great.

22 But I haven't been contacted, and I have an awful
23 lot of local knowledge, because the engineer that was
24 quoted in the Stockton Record said they should remove all
25 the trees on the levees. And I think he was quoted

1 correctly. And he was the one that gave authority for
2 houses on levees. So I don't understand that disconnect
3 there. But if you are engaged, I appreciate it. And I am
4 available for any knowledge that you would like to have.
5 Because I think I have a considerable amount. But just to
6 say you are going to remove trees and not address the
7 issue of houses, I think there's a disconnect somewhere.

8 So I don't know what the Board's pleasure is as
9 far as houses on levees, whether you are going to accept
10 it or not. Because I think you have been played by the
11 reclamation district, when Mr. Morgan admitted that you
12 have never had an application to move a main levee or
13 neither has the district applied for a permit to do that.

14 PRESIDENT CARTER: Thank you.

15 Mr. Rabbon, did you want to comment?

16 MR. RABBON: My comment is based, fortunately, on
17 the detailed background I have for California area.

18 I believe you said you were in Discovery Bay?

19 MR. TILTON: Yes, sir.

20 MR. RABBON: Discovery Bay is not within the Corps
21 of Engineers federal program, as far as I'm aware, which
22 means it's not a federal levee nor is it a levee that the
23 levee owners have come to the Corps and said, "We want to
24 join a Corps of Engineers program for rehabilitation," and
25 that's the program that Jay referred to with the O&M

1 manual. Our programs right now are restricted to levees
2 that are -- have some kind of nexus to the Corps. So we
3 don't have any involvement with that levee.

4 However, we do have -- and I said trees on levees,
5 that did not mean that's all we're worried about on
6 levees. We're worried about other encroachments, which
7 would be the typical process that we go through, or the
8 Board here goes through, in terms of do you or do you not
9 allow a structure on a levee? And if you do, what are the
10 constraints to allow that.

11 PRESIDENT CARTER: Thank you. Thank you very much
12 for coming.

13 We have no Item 16. I propose we take a
14 ten-minute recess, and we will reconvene with Item 17, RD
15 800 Subventions Claim.

16 So take ten minutes.

17 (Thereupon a break was taken in
18 proceedings.)

19 PRESIDENT CARTER: So as a reminder, we are on
20 Item 17. The Reclamation District 800 Subventions Claim.

21 Mr. Mraz, welcome. Thank you for your patience.

22 MR. MRAZ: President Carter, General Manager
23 Punia, Members of the Board, thank you for the opportunity
24 to talk today.

25 What I hope to do today is just describe very

1 briefly the purpose of the Delta Levee Subventions
2 Program, and then provide a little bit of specific
3 information on the funds paid to Byron Tract RD 800.

4 --oOo--

5 MR. MRAZ: The Delta Levee Subventions Program is
6 intended to reduce the risk of flooding to Delta islands.
7 And what it does is it provides grants of state funds to
8 reclamation districts to offset the costs of maintaining
9 and improving levees within the delta. There are no
10 federal funds at all, administered through this program.
11 It's all state funded.

12 The funds that the reclamation districts receive
13 are all prioritized according to a set of criteria and
14 procedures that you approve each year. And we'll be
15 coming to you to talk about those in little bit more depth
16 next month. And they can provide up to 75 percent of the
17 costs of eligible expenses.

18 So each participating reclamation district signs
19 an agreement with the Board at the beginning of the year.
20 They go out. They conduct all of their own maintenance,
21 pay all of their bills, and then at the end of year, they
22 submit a final plan.

23 So with respect to Byron Tract, there's
24 6,933 acres on the Tract. They have been in the
25 subventions program for 27 years. And they have adopted a

1 standard of the Hazard Mitigation Plan Levee Cross-Section
2 for their -- what their long-term target is to maintain.

3 Over the years, they have received, or they have
4 spent on the levees, about \$7.6 million of that:
5 5.1 million is state funds; 2 and a half are local funds.

6 Now, the levees that they are maintaining are
7 non-projects, which means they are not part of the Plan of
8 Flood Control. And there's 9.7 miles of levees
9 participating in that program.

10 Now, just for example, in 2006/7, the year that
11 we're in right now, the reclamation district put in an
12 application for just slightly over \$1 million. That was
13 their amount that they proposed to do work. Now, we are
14 working on the current 5/6 claims. And their claims have
15 been submitted, showing that they actually did spend
16 \$221,000 of that. The State is planning to reimburse
17 about 110,000.

18 So the levees that are maintained with the
19 subventions funds are the ones that are highlighted here
20 in orange. It starts at the pump station and goes around
21 the sloughs and becomes adjacent to Clifton Court Forebay
22 and ends in a dry land levee at the southern end. That's
23 9.7 miles.

24 Now, I did take a look at the levees just
25 recently, drove around them. They are very well

1 maintained. They are up to a very nice standard. And
2 with respect to the subventions funds, it's my belief that
3 they are well spent and used for the intended purpose, to
4 reduce the risk of flooding on the Byron Tract.

5 And that's all that I have for you.

6 VICE PRESIDENT HODGKINS: Could I ask a couple of
7 questions. Would you put the --

8 MR. MRAZ: Let's see if I can get this to go back.
9 There we go.

10 VICE PRESIDENT HODGKINS: Okay. We see the north
11 end of the levees, that are in subventions, ends right at
12 Discovery Bay; is that correct?

13 MR. MRAZ: That's correct. That's actually the
14 beginning of their system as far as the way they track the
15 levee miles.

16 VICE PRESIDENT HODGKINS: Okay. From the
17 standpoint of flood risk in Discovery Bay, is the levees
18 that protect Discovery Bay RD 800 or somebody else's?

19 MR. MRAZ: The levees that are around the
20 perimeter here --

21 VICE PRESIDENT HODGKINS: Discovery Bay -- the
22 impression that I have is that the water level in
23 Discovery Bay is fundamentally tied to the water level of
24 the Delta; so that as water comes up, there's the
25 potential here for the water level in Discovery Bay to get

1 out in the Byron Tract.

2 And I'm trying to understand, is Discovery Bay and
3 whatever levees are around it part of Byron Tract? Part
4 of RD 800's levees?

5 MR. MRAZ: It's my understanding that they have
6 more levees in their district than are served with the
7 subventions program. So they have more than the 9.7
8 that's eligible under subventions.

9 VICE PRESIDENT HODGKINS: And then one other
10 question, since you are here: At a function somewhere, a
11 gentleman who generally knows what he's talking about said
12 that the subventions fund was created, really, because
13 there was concern about how the failure of Delta levees
14 could potentially affect the delivery of water.

15 Would you agree? Is that a true statement?

16 MR. MRAZ: I would agree with that, yes.

17 VICE PRESIDENT HODGKINS: Okay. Okay. All right.

18 And so we're protecting the levees, but we're
19 protecting them as much for the point of making sure the
20 water runs south as for -- okay.

21 MR. MRAZ: I think there's probably a number of
22 more interests than just the water, but I believe that was
23 the genesis of the program.

24 VICE PRESIDENT HODGKINS: Okay.

25 MR. MRAZ: Yes, sir.

1 VICE PRESIDENT HODGKINS: Okay. All right. Thank
2 you.

3 PRESIDENT CARTER: Any other questions for
4 Mr. Mraz?

5 VICE PRESIDENT HODGKINS: One last one.

6 MR. MRAZ: Sure.

7 VICE PRESIDENT HODGKINS: You said that they have
8 a standard and it's HMP standard; right?

9 MR. MRAZ: Yes.

10 VICE PRESIDENT HODGKINS: Was that a requirement
11 under the subventions program that they make a standard
12 and maintain to it?

13 MR. MRAZ: Not -- not a requirement. The
14 requirement is that they develop a long-term standard and
15 work to the best of their ability to get there.

16 Now, the Delta soils are such that you may reach
17 the standard this year. And due to consolidation or other
18 things going on, you might not be at that same standard
19 next year. And the program recognizes it. So we
20 encourage them to adopt a standard and continue to work
21 toward meeting that.

22 VICE PRESIDENT HODGKINS: Okay. But they decide
23 what standard it is?

24 MR. MRAZ: That's correct.

25 MEMBER RIE: Where does HMP come from?

1 MR. MRAZ: Hazard Mitigation Plan back in the --
2 probably going to blow the dates here, but somewhere in
3 the early '80s, FEMA came into the Delta and started
4 looking and saying, "Well, we've come here and bailed
5 these islands out a number of times for flood damages."
6 And the islands were not maintaining any particular
7 standard. FEMA said, "Well, in order to qualify for
8 future FEMA funds, you should be up to this minimum HMP
9 level."

10 So it's one of the -- it's the lowest level of
11 protection that's recognized in the Delta. And FEMA does
12 use it to make a determination whether the reclamation
13 district qualifies for emergency funding when a national
14 emergency is declared or when a federal emergency is
15 declared.

16 PRESIDENT CARTER: Mr. Mraz, currently, the
17 subventions program covers this 9.7 miles that you
18 mentioned. There are other levees that RD 800 has
19 responsibility over, on Byron Tract.

20 MR. MRAZ: Yes.

21 PRESIDENT CARTER: Why isn't there subventions
22 money spent on those?

23 MR. MRAZ: That's really a question you would have
24 to ask the reclamation district. I'm not sure what --
25 what provisions they have made to fund those additional

1 levees. So I really couldn't shed any light on that.

2 PRESIDENT CARTER: Are there specific requirements
3 that levees have to satisfy in order to qualify for
4 subventions?

5 MR. MRAZ: Well, it would have to be levees within
6 the Delta. And if -- since these are not project levees,
7 a levee in the Delta is the main requirement.

8 The next requirement -- the next judgment comes
9 when the Department prioritizes their funding. And they
10 haven't requested that we do anything more than these 9.7
11 miles, and we haven't been faced with that yet.

12 PRESIDENT CARTER: Okay. And nobody from DWR has
13 suggested that maybe they ought to be looking -- or
14 consider funding, subventions funding, for the other
15 portions of levees?

16 MR. MRAZ: The reclamation districts are the ones
17 that are purely responsible for the levees, the safety of
18 their area within their zone. The State offers
19 assistance. They don't tell them how to run it; we don't
20 go out and insist that they meet any particular standard.
21 It's a voluntary program that they -- that some
22 reclamation districts choose to participate in. Others
23 choose not to participate in. So no, the State does not
24 direct them to do anything like that.

25 PRESIDENT CARTER: Okay. Any more questions for

1 Mr. Mraz?

2 Very good. Thank you very much.

3 MR. MRAZ: Thank you.

4 PRESIDENT CARTER: Please stand by. Mr. Tilton,
5 did you want to speak on this item?

6 MR. TILTON: Just briefly. I appreciate the
7 really insightful questions that the Board asked. I
8 appreciate that. On their last -- next to the last page
9 in their application, they show levees. And none of the
10 levees have houses on them; urban levees, agricultural, or
11 any of them.

12 PRESIDENT CARTER: Could you tell me -- I've lost
13 you. Which application are you talking about and who's
14 "they"?

15 MR. TILTON: I'm sorry. The one that he just --
16 it's one on your Web site, that's listed RD 800 Fiscal
17 Year 2006/07 Delta Levee Subventions Program Application.

18 PRESIDENT CARTER: Okay. Do we have that in our
19 packet?

20 MR. TILTON: It's a 12-page document. It just has
21 some cross-sections of the levees, is what it is.

22 SECRETARY DOHERTY: Is this it?

23 MR. TILTON: That's right. Lady Bug has it, yes.

24 PRESIDENT CARTER: Okay. Thank you.

25 MR. TILTON: And on there, it shows no houses,

1 trees, or anything. And as the staff saw, when they were
2 there, on site, and as the reclamation district engineer
3 Neudeck stated, that if any of these levees flood, it
4 floods all of Byron Tract, as you pointed out, that even
5 though the -- let me see. Here it is.

6 --o0o--

7 MR. TILTON: The levees that come down this way,
8 go around, come around, because the lake is actually lower
9 than the river. All of this is about 7 feet below this
10 levee that goes here, where all the houses are. And
11 there's no access road on that. So when that levee fails,
12 there is no way to get to it, unless you do a -- I don't
13 know how. Maybe helicopter, I suppose.

14 But I don't know how we resolve this. But I'm
15 willing to work with people on this and stay engaged. So
16 you asked some really good questions and I think they need
17 to be answered. Because the reclamation district, just
18 because they don't notice you doesn't mean that they are
19 following the intent of public safety. And that's
20 unfortunate, as you have come to realize.

21 So thank you.

22 PRESIDENT CARTER: Any questions, comments from
23 the Board?

24 SECRETARY DOHERTY: Those levees within the
25 subdivision are not part of our federal or state levee

1 system. Those were done by a developer.

2 MR. TILTON: Yes, ma'am. They are owned by the
3 district. As they stated before, in a public document,
4 recorded public document, they own the levees and they own
5 and maintain the levees.

6 They enjoy the benefits of NFIP, and they are to
7 meet those standards. But with the recent decision, it
8 just says that they have no -- and that's why I need the
9 transcript from the prior meeting. I haven't received it
10 yet. I wanted to make some corrections because I misspoke
11 when I said "published standard." It's "in a particular
12 manner." The judge said they have a mandatory duty to
13 maintain in a particular manner. And the federal
14 government says you must -- or you shall.

15 So there's a disconnect there, and that's what I
16 hope to bring forward is, it is the same levee, the exact
17 same levee. And it's all maintained by a local agency.
18 And that's what I want to get straight, is that there is
19 no dividing line where you can say, this is this
20 particular type of levee, this is that particular type.
21 It's all one levee; it's contiguous. I don't know anybody
22 that says it's divided into two different parts, and the
23 water magically stays on one side or the other. I think
24 only Moses was able to do that. But otherwise, that's it,
25 yes.

1 PRESIDENT CARTER: Thank you very much.

2 Okay. Now we are on to Item 18, Strategic Plan.

3 Mr. Hodgkins?

4 VICE PRESIDENT HODGKINS: Thank you, Mr. Chairman.

5 Lorraine has passed out to you what is -- and it kind of

6 got lost in the copies here. It says very clearly

7 preliminary draft. And it has the date on it in yellow.

8 You may not be able to read it.

9 PRESIDENT CARTER: My copy does not have that, but
10 I would appreciate everyone writing a big "draft" across
11 the pages.

12 VICE PRESIDENT HODGKINS: Preliminary draft,
13 2/15/07. Very important. It is a preliminary draft.

14 PRESIDENT CARTER: The way it's here, it looks
15 like it's a done deal.

16 VICE PRESIDENT HODGKINS: Well, except that one --
17 at least you could -- that's your writing.

18 PRESIDENT CARTER: That's my writing.

19 VICE PRESIDENT HODGKINS: Okay. I apologize.

20 I don't want to take a great deal of time with
21 this because I think as we go forward, we're going to talk
22 about a workshop next month, where the Board will have
23 time allocated specifically to talking about these.

24 But I think what I would like to do is to let you
25 know that the -- the vision, which is on your second page

1 of these handouts, was developed out of a meeting between
2 Ben and I and Jay, where we -- and Ben is very good in
3 leading these things. But we basically went through and
4 sort of talked about what each of us thought was part of
5 our long term plan. And out of all those things, then I
6 spent some time trying to develop what would be a vision
7 statement. And as we develop a strategic plan here, I
8 think from a presentation several months ago that I made,
9 the Board was very interested in pursuing an approach
10 where we identified our core values and our vision here,
11 before we try to get into details, because then these are
12 the things we would fall back on when we get to a point,
13 both in developing the strategic plan and other business,
14 identifying what we think would be the key things to think
15 about as we move forward.

16 And so that's how the vision statement was
17 developed. And then out of the vision statement, I took a
18 shot just for sake of bringing up a discussion and talking
19 about the other elements of sort of the overriding
20 statement that you then develop a strategic plan in.

21 The core values and things are mine, not anybody
22 else's. But it's based on what, I think, in most cases,
23 other Board members share.

24 A purpose statement. And then out of the purpose
25 statement, I tried to develop a mission statement. I

1 tried a mission statement to get into the elements that I
2 think are in the Water Code and also elements that are not
3 in the Water Code, but are places where we might want to
4 go.

5 I don't know what the preference of the Board is
6 here, in going through these at this particular point in
7 time.

8 I think my intention would be that we would make
9 these available to people in advance of a workshop next
10 month. And it's important that the Board at least have an
11 opportunity to see what it is that we might make available
12 to people. But they -- it would be very clearly marked
13 "preliminary draft."

14 The other thing that I hope to do before that
15 workshop is to -- you know, part of working with Ben and
16 some of the information he's given in the strategic plan,
17 we have to have some idea of the environment you are
18 working in. And I think in the Central Valley, the two
19 pieces that are really critical in understanding, from a
20 standpoint right now, on the existing system and how it
21 might look from current public safety standpoints and the
22 potential growth in the Valley.

23 And so I was going to put a brief presentation
24 together on those, with the help of some of the staff, to
25 sort of flesh all of this out, do a little presentation on

1 how I, you know, using the key considerations that I see
2 as we think about strategic planning. And then go ahead
3 and get into a discussion of these, because they really --
4 if it's going to work, they really have to represent
5 things that the Board is committed to, you know, maintain
6 and following up on.

7 And so that's sort of where -- where we are right
8 now. And I think at this point I would be happy to
9 discuss -- I'm open to suggestions. You know, what's the
10 pleasure of the Board?

11 SECRETARY DOHERTY: Sounds absolutely grand.

12 VICE PRESIDENT HODGKINS: Okay. Very nice of you.

13 PRESIDENT CARTER: I just -- just a comment. I
14 would expect that -- certainly, I would expect this draft
15 to change dramatically and perhaps not be recognizable
16 after we're done with this process.

17 So by no means consider this close to finished.
18 What we are really looking for, and what we really wanted
19 to do, was basically throw this out so that people could
20 have something to react to and begin the process of
21 doing -- this thought process -- on a more concrete level
22 as opposed to conceptual.

23 So we invite Board members and staff members and
24 members of the public to -- and other departments -- give
25 us their feedback on that, and hopefully constructive

1 feedback. If you don't like something, tell us why and
2 what you would do differently. If you do like something,
3 tell us why and how we might improve it.

4 The vision eventually is something that really
5 paints a picture of what -- what the Reclamation Board's
6 view of flood management, and maybe the State Plan of
7 Flood Control, is going to look like in 50 or a hundred
8 years. It's a real stretch and a future picture of
9 what -- what the process and the facilities might look
10 like. And the statement eventually hopefully will, when
11 you read it, you will, in your mind's eye, be able to see
12 that, and there will be a lot of shared perspective on
13 that amongst the people who read that.

14 So it will be clear enough and descriptive enough
15 that people will be able to -- to see that in their mind's
16 eye, as they read it.

17 The core values are essentially values that the
18 Board falls back on when they have no other guidance. If
19 the Water Code, if precedent or whatever does not -- does
20 not seem to help us in coming to a decision or a
21 conclusion, our core values are really what drive our
22 decision making on that. So it's what you -- what the
23 Board and staff really feel in their heart is the right
24 thing to do. These are very, very, very fundamental
25 things.

1 So then the purpose and vision are -- the mission
2 is a little shorter term, but it's a step to -- a stepping
3 stone to reaching the vision time in the future. So just
4 to give you a little bit of context of the various
5 elements that we are talking about.

6 And Butch is exactly right. It's really
7 fundamental to have these things down, because they
8 represent the foundation on which you then develop your
9 strategy. And then your objectives and from that, tactics
10 and actions and then metrics against those objectives or
11 measuring your progress toward achieving those objectives
12 and the mission.

13 So this is the foundation of the planning process.
14 So that's why -- and typically organizations agonize much
15 longer over these things than they do over the planning
16 process. Because this is -- this is -- this is the
17 fabric -- this represents the fabric of the organization.
18 And then the strategy is what you paint on that fabric.

19 I think it's a worthwhile effort to spend some
20 good quality time on establishing this foundation. And
21 then the rest, I think, will come more easily.

22 SECRETARY DOHERTY: I think the basis, Butch, you
23 hit it on the head when you say "Embrace the fact that
24 floods are managed but never controlled, and flood risk is
25 reduced but never eliminated." That's number one. And

1 then, "We are willing to be flexible and embrace change."
2 And I think that taking those two things, we can go a long
3 ways with all of that. It's excellent.

4 PRESIDENT CARTER: Lorraine?

5 STAFF ASSISTANT PENDLEBURY: Ben, you mention
6 public input into this. Would you want this posted on the
7 Web site?

8 PRESIDENT CARTER: I think it's probably a little
9 premature to do that. But this is now a public document.
10 So to the extent that people have comments, yes. I think
11 for us to publish it on the Web site and solicit comments,
12 it's probably not mature enough yet, not robust enough
13 yet, for that. So I would -- I would recommend not doing
14 that yet. At some point, yes, we'll want to do it.

15 STAFF ASSISTANT PENDLEBURY: Okay. The second
16 part is, Butch, could you get me an electronic copy? I
17 would like to forward it to Rose Marie.

18 VICE PRESIDENT HODGKINS: Sure, I could.

19 STAFF ASSISTANT PENDLEBURY: Or could you just
20 forward it to Rose Marie? Because she should be part of
21 this; right? And she hasn't received this.

22 VICE PRESIDENT HODGKINS: You know, in effect, I'm
23 almost doing a staff report for the workshop, which I
24 thought would hopefully try to get out, in the agenda that
25 would -- that would do partly what you said and make it

1 clear, though, that our intent here is not -- at the
2 workshop is not to adopt anything, but to have an
3 opportunity for the Board itself to work with the staff
4 and try and find that. Ben talks about it so well, that
5 fabric, that basic set of values, and long-term objective.

6 PRESIDENT CARTER: So the plan, as I understand
7 it, is to try and have a workshop where we dedicate a
8 special block of time towards working on the strategic
9 plan. And the current thought is, perhaps, that would be
10 May 9th.

11 GENERAL MANAGER PUNIA: March.

12 PRESIDENT CARTER: I'm sorry. March 9th, where we
13 would allocate at least a couple hours to discuss this,
14 where we would sit around a table and try and push this to
15 the next -- to the next level of development.

16 SECRETARY DOHERTY: Where and what time?

17 PRESIDENT CARTER: The -- the current plan is to
18 have it at the JOC. And in the afternoon, specifically
19 what time, we can -- do you have a time?

20 GENERAL MANAGER PUNIA: My proposal is, on the
21 same day, we are first going to have a subcommittee
22 meeting in Marysville; and then afternoon from 12:30
23 onward, we will have the workshop. There is two items on
24 the workshop: One is hydraulic analysis options report;
25 and then the second topic is the strategic business plan,

1 development of the plan.

2 So I think it's open for discussion. Ben, from
3 8:30 to 11:00, we will have a subcommittee; TRLIA, second
4 subcommittee meeting. And your wish is to have it in
5 Marysville.

6 PRESIDENT CARTER: I think it's very important to
7 have it -- have the subcommittee meetings on site where
8 the projects are taking place, to give the public a
9 reasonable opportunity to attend those. I know that there
10 are some that want to have that here in Sacramento because
11 of logistical concerns.

12 However, I think that the public participation,
13 that's one of our primary missions, and we really need to
14 try and honor that, that mission. And I think public
15 access is important when we're specifically dealing with
16 one project.

17 SECRETARY DOHERTY: So that one will be at 8:30 in
18 Marysville/Yuba city area on the 9th?

19 PRESIDENT CARTER: The Yuba County Government
20 Center.

21 SECRETARY DOHERTY: Okay. At 8:30.

22 PRESIDENT CARTER: At 8:30 on the 9th.

23 GENERAL MANAGER PUNIA: From 8:30 to 11:00,
24 subcommittee meeting. And then we will travel back to
25 Sacramento from 12:30 onward, until 4:00 if we can -- we

1 will have the workshop covering two items: the hydraulic
2 impact option report and this business plan development.

3 MEMBER RIE: Is it possible to maybe move one of
4 those items to a different day? I mean, it just seems
5 like a lot of stuff in one day.

6 SECRETARY DOHERTY: But you don't have to be up to
7 the Yuba City one.

8 MEMBER RIE: Strategic plan and the hydraulic
9 workshop, it seems like it should be one or the other on
10 that day.

11 SECRETARY DOHERTY: Was your strategic plan going
12 to be that day?

13 PRESIDENT CARTER: Yes.

14 GENERAL MANAGER PUNIA: Yes.

15 MEMBER RIE: Just seems like a lot of stuff.

16 SECRETARY DOHERTY: I went to a hydraulic,
17 Wednesday and it took us over --

18 PRESIDENT CARTER: What we're discussing is the
19 hydraulic impact slash mitigation efforts, the project
20 that we have been working on with the consultants with for
21 the last couple months, and basically presenting the --
22 the draft results of that effort.

23 In advance of our March meeting, because
24 potentially in March, we have -- we have some
25 considerations on the agenda that -- where we acknowledge

1 that analysis, and those recommendations would help us in
2 terms of the decision-making.

3 So it's probably important that we do the
4 hydraulic workshop before the March meeting.

5 I think -- would you -- if you don't have to
6 attend the morning meeting, do you think that we still
7 don't have enough time in the afternoon to do both?

8 MEMBER RIE: You may get a lot of people wanting
9 to comment on the hydraulic analysis depending on, you
10 know, how it comes out. And if you try to schedule both,
11 you may run out of time for the strategic plan or vice
12 versa. It just all depends on who shows up and what kind
13 of comments you get.

14 LEGAL COUNSEL MORGAN: And I think between SAFCA,
15 Three Rivers, and perhaps even River Islands, they all
16 have interest in hydraulic impact analysis and what the
17 Board does with that. So I agree, there's a likelihood
18 for a lot of public participation. I think it would be
19 desirable to move it out of the JOC because those
20 facilities have never proved to be very good for large
21 crowds. Either they -- you know, they can't hear, we
22 can't use public address systems because it interferes
23 with people working next door, so it would be desirable to
24 meet at either this facility or something like it.

25 GENERAL MANAGER PUNIA: Let's make a decision on

1 one at a time. First, the topic on the table is whether
2 we want to split this workshop into two workshops or not.
3 Then we'll obviously consider, Scott, the location.

4 So I agree with Teri. It may be difficult to
5 squeeze both things in one day. The idea was that we are
6 asking the Board members to come to Sacramento. Then we
7 wanted to cover the maximum to utilize their time. But if
8 the Board is willing to split these workshops into two, I
9 think that's a --

10 MEMBER RIE: Yeah, I appreciate the fact that you
11 are trying to consolidate it. I'm just afraid that
12 between the strategic plan and the hydraulic workshop
13 being in the afternoon, you are going to run out of time
14 for one of those.

15 PRESIDENT CARTER: Okay. I'm not averse to maybe
16 postponing the strategic planning discussion. I think
17 it's important to have the hydraulic discussion sooner
18 rather than later.

19 What do you think, Butch?

20 VICE PRESIDENT HODGKINS: I would agree. And
21 litigation could go on till 6 o'clock at night. On the
22 other hand, maybe it won't.

23 So maybe we could just leave them scheduled with
24 the understanding that if we can't get to hydraulic
25 mitigation -- I mean to strategic planning or if we're too

1 tired after dealing with hydraulic mitigation, we just not
2 do it. Because I don't think there's a lot of work
3 involved for staff in dealing with that part of the
4 workshop. So it's just keeping it on the agenda, so we
5 could discuss it if we have time. And if we don't, we
6 don't.

7 PRESIDENT CARTER: That okay with everyone?

8 MEMBER RIE: Yeah, just as long as we clearly
9 state that on any agendas that we may run out of time,
10 just in case we get people to speak. I would hate for
11 someone from the public to be sitting there for three
12 hours, waiting to speak on the strategic plan, and then
13 they never get the opportunity.

14 VICE PRESIDENT HODGKINS: Can we talk about that
15 just for a minute? I mean, I noticed today we had people
16 who sat out here all day for ten minutes at the end.

17 Did we ever discuss using a timed item where we
18 make a commitment not to start an item before a time
19 that's listed on the agenda? Which you could certainly do
20 there. I mean, you could say, "The discussion of
21 strategic planning will not begin before 3:30," and let it
22 go. And think about doing the same kind of thing on the
23 rest of the agenda.

24 GENERAL MANAGER PUNIA: I think there's a matter
25 to this thing. We can put some times in and try it, and

1 that will also give us indication to hurry up and try to
2 finish the topics too. And then it won't -- Dave Mraz, I
3 think, sat all day. Then at least we can say that there's
4 no need for him to come before 2:00 p.m., and that will
5 help. So we can --

6 SECRETARY DOHERTY: I try to tell my people how
7 long it's going to take. But you know, you don't know how
8 long the discussion is going to take, so that's the thing,
9 once we start it.

10 PRESIDENT CARTER: And I guess from a meeting
11 management perspective, if we finish early, then we --
12 then we recess. And I guess Board members and staff ought
13 to be prepared to bring in other work if they have to sit
14 on their hands for a half hour.

15 VICE PRESIDENT HODGKINS: You don't have to -- you
16 know, the Board of Supervisors here in Sacramento has
17 perfected this. They have a whole bunch of untimed items
18 that they just go through. And if they finish the first
19 timed item, and it's not time to start the second timed
20 item, then they start ticking off those, one at a time.
21 So if you want to speak on one of those you might very
22 well have to sit here on day depending on when it comes
23 up.

24 But the big issue items or the items that we think
25 are going to be pretty easy, where we are dragging

1 somebody in, who has a lot of work to do, can be set up as
2 timed items. And you fill it in with the non-timed items.

3 SECRETARY DOHERTY: How do you approve the agenda,
4 Butch?

5 VICE PRESIDENT HODGKINS: Well, you gain
6 experience with it and you learn how to do it.

7 But I mean, I think we could sit down with Jay and
8 talk about doing this and then we can make -- we can
9 experiment with this on the workshop. And I think it's a
10 way that might help everybody a little bit in that you
11 don't have to sit out here. You only have to sit for half
12 a day, because I've seen the Board of Supervisors get to a
13 10 o'clock timed item at 4 o'clock in the afternoon. That
14 happens. And you -- you know, if it happens it's
15 unavoidable. But it doesn't occur before 10:00. So at
16 least you avoided it until 10:00.

17 PRESIDENT CARTER: We may need some of your help
18 on that, Mr. Morgan.

19 MEMBER RIE: Well, I'm okay with us putting down,
20 "The strategic planning discussion will not start before
21 4 o'clock." That way, it's fair warning. It all depends
22 on how long you guys want to stay.

23 LEGAL COUNSEL MORGAN: The only restriction is you
24 can't -- once you say it won't start before that time, it
25 won't start before that time. And you start any time

1 after.

2 And I think Ms. Rie's concern about the public
3 coming to a meeting, that's just a concern for the public
4 sort of thing. I think it's a valid and appropriate
5 thing, that something be on the agenda that is going to
6 actually be heard, the number of people may want to come
7 and talk about it, to make it just clear if it gets too
8 late, we're going to drop it. You could put in something
9 that, if the meeting runs past this time, we will
10 re-adjourn and reconsider that item at a later time. But
11 there's really no way people are going to know until they
12 show up.

13 PRESIDENT CARTER: Okay.

14 GENERAL MANAGER PUNIA: Our other option is to
15 postpone the business plan meeting for a later date. I
16 think there's a lot of interest in this hydraulic
17 mitigation. There will be quite a bit of audience, I'm
18 expecting. And Dr. David Ford will take quite a bit of
19 time to go through the reports so we all have the chance
20 to ask questions to the Board.

21 So what's the desire? Do you wish -- I think we
22 will follow that direction. But I think there's a matter
23 to splitting it into two workshops. Then we can move a
24 little bit to our earlier subcommittee meeting. The
25 meeting early on, we can meet at 9 and then go to the

1 workshop on hydraulic mitigation and hydraulic analysis.

2 MEMBER RIE: You guys can decide at your executive
3 agenda meeting.

4 PRESIDENT CARTER: Okay. All right.

5 SECRETARY DOHERTY: Okay.

6 PRESIDENT CARTER: We'll do that.

7 Very good.

8 Well, in the meantime, look over what's there and
9 submit your feedback, back to Jay. And he will be sure
10 that Butch and I get it, I guess.

11 Moving on to the Board comments and traffic leader
12 reports. Any traffic leader reports? Comments that you
13 want to share with staff or remaining public?

14 VICE PRESIDENT HODGKINS: I just would -- there
15 were a couple of meetings in Sacramento that were being
16 held because Yolo County is trying to get an integrated
17 regional water management plan put together and include
18 some flood control.

19 The staff was very good at taking the time to go
20 to those meetings to make sure that as they thought about
21 things that might affect the flood control system, they
22 understood the importance of not coordinating with the Rec
23 Board. And I really do appreciate that effort. So I just
24 wanted to say that.

25 PRESIDENT CARTER: Okay. Also, we've had a

1 request to represent the State at a press briefing
2 sponsored by Congresswoman Matsui's office, on
3 February 21st, next Wednesday.

4 I have a prior commitment, so I'm hoping Butch can
5 cover that, in the morning. It's regarding FEMA
6 certification of the Pocket Area levees.

7 SECRETARY DOHERTY: And I got to go to the last
8 one. She's a charming woman.

9 VICE PRESIDENT HODGKINS: Lot of energy, huh?

10 SECRETARY DOHERTY: Yeah.

11 PRESIDENT CARTER: Okay. The Report of Activities
12 of General Manager.

13 MEMBER RIE: One more thing on the general
14 comments. I want to thank the staff for providing copies
15 of all these miscellaneous letters. Appreciate that.

16 GENERAL MANAGER PUNIA: Jay Punia, General
17 Manager, General Manager's Report.

18 There are about 45 permits which are -- we are
19 working on, and the Board requested a listing of these
20 permits, and I'm distributing a copy of this.

21 Our recruitment efforts are ongoing for the senior
22 engineer. Today is the final filing date. We have
23 received two applications so far, and I'm expecting that
24 we may have a couple more as of today.

25 And we will be scheduling the interviews in the

1 next week or so, so that we can finish our interviews --
2 interview process by the end of this month.

3 MEMBER RIE: Is that for a registered civil
4 engineer?

5 GENERAL MANAGER PUNIA: Yes. It's classification
6 of senior engineer, water resources, and its required
7 certification.

8 Steve Bradley and myself and Nancy Finch took
9 Deborah Barnes, from the Attorney General's Office, for a
10 tour and meeting with the River Island people there, so
11 that she's familiar with the project. And we had a
12 meeting with the River Island folks and a tour.

13 SECRETARY DOHERTY: How is the River Island
14 project going?

15 GENERAL MANAGER PUNIA: They have finished the
16 back levee and the fill, that area between the two levees.
17 And I think Steve may have -- I think that's Phase 1,
18 Steve, in our permit, that's almost complete?

19 CHIEF ENGINEER BRADLEY: It's not Phase 1. It's
20 just the first permit that we permitted. They have filled
21 between the two levees and now -- and they have also
22 widened beyond where their levee was. So the levee is
23 approaching the 300-foot width. The original levees were,
24 with the fill, between, it was about, 185 feet or
25 somewhere in that neighborhood. But they have widened

1 that to about 300 now. It actually is quite impressive to
2 see that massive dirt.

3 SECRETARY DOHERTY: And they all brought it out of
4 the bottom there, the development area?

5 CHIEF ENGINEER BRADLEY: You can see the internal
6 lakes throughout there now, at least part of them. So
7 yeah.

8 GENERAL MANAGER PUNIA: I think we briefly
9 discussed this coming workshop. We will be discussing
10 this report, being prepared by David Ford Consulting Firm.
11 Hydraulic analysis, option for hydraulic analysis and
12 mitigation.

13 My vision is that we will be bringing this report
14 to you during the workshop, and we will be sharing the
15 report to you and with the general public. And we will
16 seek your input, and then we will be preparing a final
17 report, so that we are not bringing this report back to
18 the Board for an action item. According to our counsel,
19 that's not desirable, because that will be considered
20 under general regulations. So this report will serve as a
21 technical tool, which will be shared by the Rec Board
22 staff, and which will be shared to the applicants also,
23 for them to use as a technical report before embarking on
24 this hydraulic analysis application in the future.

25 MEMBER RIE: Jay, will we receive that before the

1 meeting, or will it be passed out at the meeting?

2 GENERAL MANAGER PUNIA: We are working on this
3 agenda, and we will send a notice of the workshop. My
4 goal is to send the link to the general public also, so
5 they can download to the Board members, and we will make
6 sure they get the hard copies.

7 SECRETARY DOHERTY: On one of these, 18161, Jones,
8 that permit, those spots on Angel Slough? It's on Page 3.

9 GENERAL MANAGER PUNIA: Yes.

10 SECRETARY DOHERTY: Angel Slough runs parallel to
11 the project that Del Rio already has there. I just
12 thought I would throw that out.

13 GENERAL MANAGER PUNIA: DWR is planning to have
14 several flood-safe workshops throughout California. We
15 will send you a schedule so that everybody is aware of
16 those flood-safe workshops.

17 SECRETARY DOHERTY: May I ask you another
18 question?

19 GENERAL MANAGER PUNIA: Sure.

20 SECRETARY DOHERTY: We get a lot of information,
21 and I got one in the mail yesterday. I don't know which
22 ones of these things that I really need to go to.

23 Could you kind of give us a heads-up on, this is
24 something that I think you need to go to or this is
25 something you don't need to go to or whatever?

1 GENERAL MANAGER PUNIA: I will be glad to. This
2 is for information only.

3 SECRETARY DOHERTY: Good. I would appreciate
4 that.

5 GENERAL MANAGER PUNIA: Field investigation of the
6 Caltrans Detention Basin. I think Steve already gave you
7 the report on that.

8 Lorraine Pendlebury gave us a demonstration on the
9 electronic document routing and reviewing. This is a good
10 system. How we can review the documents and provide
11 comments without hard copies. So we are implementing that
12 process. And I'm sure it will increase the efficiency of
13 the office.

14 SECRETARY DOHERTY: Good for Lorraine. Thank you.

15 STAFF ASSISTANT PENDLEBURY: Thank you.

16 GENERAL MANAGER PUNIA: And I want to thank Board
17 Member Lady Bug who participated in that media press
18 briefing from Congresswoman Matsui. We requested they
19 give her a short time, but she was able to participate.

20 Thank you.

21 SECRETARY DOHERTY: Thank you. It was
22 interesting.

23 GENERAL MANAGER PUNIA: I think that's it, all I
24 have to report. Thank you.

25 PRESIDENT CARTER: Any questions for Mr. Punia?

1 Thank you.

2 Future agenda. I don't believe we have a copy in
3 our packet. Do we?

4 MEMBER RIE: Item 21. Do we have one?

5 GENERAL MANAGER PUNIA: Yes.

6 STAFF ASSISTANT PENDLEBURY: It may be in the
7 additional packet. That's where it will be.

8 MEMBER RIE: There was an item on our agenda today
9 for another elderberry discussion. What happened to that?
10 Item No. 16.

11 SECRETARY DOHERTY: On Murphy Slough.

12 PRESIDENT CARTER: That was postponed at the
13 request of the --

14 SECRETARY DOHERTY: -- applicant?

15 PRESIDENT CARTER: -- applicant.

16 MEMBER RIE: Who is the applicant?

17 GENERAL MANAGER PUNIA: The thinking is the
18 Department of Water Resources wanted to bring this item,
19 because they thought they may need to replant some
20 elderberries at a critical erosion site.

21 For the time being, they are able to accommodate
22 that work with a private vendor, and then they are
23 developing some guidelines on this elderberry plantings,
24 so they will bring those guidelines first, and then bring
25 this topic back to the Board.

1 MEMBER RIE: Is this Murphy Slough? Is that the
2 same area?

3 SECRETARY DOHERTY: It's not far.

4 GENERAL MANAGER PUNIA: This is downstream of MMTE
5 flood relief structure. There are already elderberry and
6 restoration areas. This is in the Butte Basin.

7 MEMBER RIE: Okay. So that one's postponed until
8 we can get DWR guidelines put together?

9 GENERAL MANAGER PUNIA: That's the -- DWR is
10 thinking that will be a more productive use of the Board's
11 time.

12 PRESIDENT CARTER: Okay. So we do have a draft
13 agenda in the supplemental Board packet here, for March
14 16th.

15 The first page is pretty much boilerplate, same as
16 it has always been.

17 Second page under Project or Study Agreement, we
18 have Sutter County Feasibility Study; West Sacramento;
19 Yuba River Basin Project.

20 Didn't we just do that?

21 GENERAL MANAGER PUNIA: That was in case that was
22 not decided.

23 PRESIDENT CARTER: Okay. So that's away.

24 And then SAFCA Encroachment Permit for the Natomas
25 Levee Improvement Program, their programmatic.

1 We also talked about Delta Levee subventions
2 today. And Dave Mraz has an expectation that he's going
3 to give his proposal in March?

4 GENERAL MANAGER PUNIA: That's correct.

5 PRESIDENT CARTER: Okay.

6 MEMBER RIE: Is Item 14 realistic to be on the
7 March agenda?

8 GENERAL MANAGER PUNIA: I think Sacramento Area
9 Flood Control Agency is pushing it. They have submitted
10 the application. We have sent the application to the
11 Corps for their comments, and we are trying our best to
12 accommodate their wishes.

13 MEMBER RIE: Didn't they ask for the -- not the
14 programmatic, but the individual permit for the -- I think
15 it was a slurry wall?

16 GENERAL MANAGER PUNIA: That's what this is --
17 Cross-Canal Natomas Encroachment Permit Application.
18 Natomas levee improvements, strengthening in place for the
19 Natomas Cross -- South Levee of the Cross-Canal.

20 MEMBER RIE: Okay. Because this says programmatic
21 permit. But my understanding there was a programmatic
22 permit which was the overall conceptual permit. And then
23 they were also applying for the individual permit for the
24 seepage berm.

25 GENERAL MANAGER PUNIA: I think you are correct.

1 Looks like there's a typo. We inserted the wrong
2 language. We are not going to come for the programmatic.
3 We are going to come for the south levee of the
4 cross-canal and strengthening in place.

5 PRESIDENT CARTER: As far as informational
6 briefings, we have the TRLIA Hydraulic Impact Analysis;
7 Global Climate Change; and Strategic Plan. Strategic Plan
8 may stay on or come off, depending on whether or not we
9 have a special meeting on that.

10 So are there other -- I was looking for my list.

11 VICE PRESIDENT HODGKINS: I think the uncertainty
12 here is that there will be some kind of a report from the
13 Yuba Basin Subcommittee. But that could be that we're
14 asking for a more specific item, whether it could
15 potentially be an action on that. We will just have to
16 wait and see.

17 GENERAL MANAGER PUNIA: The TRLIA has submitted a
18 permit application for segment 1 and 3 on the Feather
19 River. So staff is working on that application. But we
20 are not ready -- whether we will be ready to bring in
21 March or not. We are also waiting from the comments from
22 the U.S. Army Corps of Engineers.

23 VICE PRESIDENT HODGKINS: Okay. And my thinking
24 is more that, as a result of the subcommittee's review,
25 depending on what the schedule is for, moving forward.

1 And whether they have the money or not, there could be
2 other issues that the Board would need to asked. But it's
3 not specifically those permits at this point.

4 PRESIDENT CARTER: Okay.

5 MEMBER RIE: May I ask who is John Andrew?

6 GENERAL MANAGER PUNIA: John Andrew is a DWR
7 employee who works in the Division of Planning. He was
8 the principal person working on the report published by
9 the Department of Water Resources on the Climate Change.

10 MEMBER RIE: That's the report that's already been
11 done; right?

12 GENERAL MANAGER PUNIA: That's correct.

13 MEMBER RIE: Would it be possible to get a copy of
14 that way in advance, since it's already done?

15 PRESIDENT CARTER: Yes.

16 SECRETARY DOHERTY: Is it big and thick?

17 GENERAL MANAGER PUNIA: I haven't seen the old
18 report. Scott or Steve, you have seen the report? It's
19 available on the net. If you prefer, I can send you a
20 link. Otherwise, I can try and get a copy.

21 SECRETARY DOHERTY: Send me a link and if I need a
22 copy, I'll let you know.

23 MEMBER RIE: I would like a copy printed out.

24 PRESIDENT CARTER: If it's big and thick, send one
25 in the mail.

1 MEMBER RIE: It is big and thick.

2 SECRETARY DOHERTY: Oh, gosh, well then send it.

3 MEMBER RIE: It's a few hundred pages. That's why
4 we should get it early.

5 VICE PRESIDENT HODGKINS: I would be happy with a
6 link in either case.

7 GENERAL MANAGER PUNIA: And one more comment: My
8 plan is, if the rest of the agenda is too full, then I may
9 postpone this Global Climate Change rather than going too
10 late. But if the rest of the items looks like we can wrap
11 up, then I will keep this item on the agenda.

12 PRESIDENT CARTER: Okay. Very good.

13 Any other comments? All right. Ladies and
14 gentlemen, we are adjourned.

15 Thank you very much.

16 (The Reclamation Board meeting adjourned at
17 4:23 p.m.)

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1 CERTIFICATE OF REPORTER

2 I, KATHRYN S. KENYON, a Certified Shorthand Reporter
3 of the State of California, do hereby certify:

4 That I am a disinterested person herein; that the
5 foregoing Reclamation Board Meeting was reported in
6 shorthand by me, Kathryn S. Kenyon, a Certified Shorthand
7 Reporter of the State of California, and thereafter
8 transcribed into typewriting.

9 I further certify that I am not of counsel or
10 attorney for any of the parties to said meeting nor in any
11 way interested in the outcome of said meeting.

12 IN WITNESS WHEREOF, I have hereunto set my hand this
13 28th day of February, 2007.

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21

22 KATHRYN S. KENYON, CSR

23 Certified Shorthand Reporter

24 License No. 13061

25